



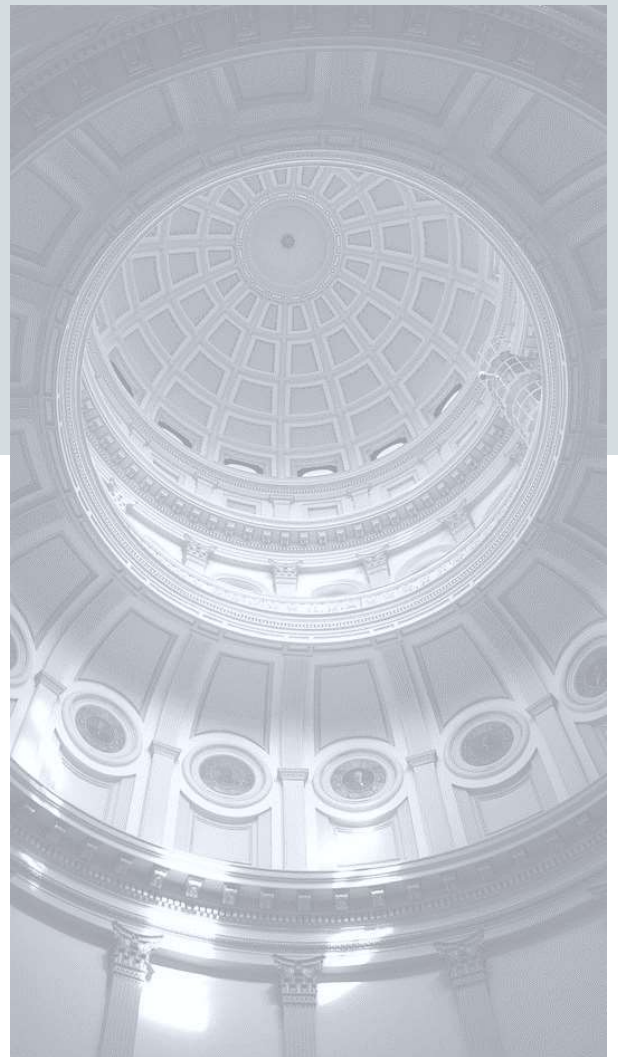
**COLORADO**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

# 2021 Sunset Review

Speech-language Pathology Practice Act



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October 15, 2021



**COLORADO**

**Department of  
Regulatory Agencies**

Executive Director's Office

October 15, 2021

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Pursuant to section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies (DORA) undertakes a robust review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, DORA and more broadly of our state government seriously. Specifically, COPRRR contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient and inclusive regulations that reduce barriers to entry into various professions and that open doors of opportunity for all Coloradans.

As part of this year's review, COPRRR has completed an evaluation of the Speech-language Pathology Practice Act. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2022 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 305 of Title 12, C.R.S. The report also discusses the effectiveness of the Director of the Division of Professions and Occupations in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes for the review and discussion of the General Assembly.

To learn more about the sunset review process, among COPRRR's other functions, visit [coprrr.colorado.gov](http://coprrr.colorado.gov).

Sincerely,

**Patty Salazar**  
Executive Director





## Sunset Review: Speech-language Pathologist Practice Act

### Background

#### *What is regulated?*

Speech-language pathologists (SLPs) attempt to prevent, assess, diagnose, and treat speech, language, social communication, cognitive-communication, and swallowing disorders in their clients. Individual interventions depend on what the problems are and what outcomes are desired. The setting in which most people are familiar with SLPs is working with young people. Pediatric SLPs help children communicate by creating interventions to aid verbal and non-verbal language skills.

#### *Why is it regulated?*

Often SLPs work in acute care settings helping clients with rehabilitation after a trauma such as a major injury or stroke. An SLP may be required to assess and treat swallowing disorders, respiratory issues, and work with clients who use ventilators or have tracheostomies. In such cases, there is potential for severe injury if someone is untrained and not certified. SLPs tend to work with those who are vulnerable and may not be able to question practices or therapies and some may not be able to convey or transmit if they are abused or harmed.

#### *Who is regulated?*

At the end of fiscal year 19-20, there were 3,068 SLPs certified by the Director of the Division of Professions and Occupations (Director and Division, respectively).

#### *How is it regulated?*

To become certified in Colorado, an SLP must have at least an approved Master's degree in communication sciences and disorders or speech-language pathology; successfully complete a speech-language pathology clinical fellowship approved by the Director or the American Speech-Language-Hearing Association (ASHA); and pass a Director-approved or ASHA examination.

#### *What does it cost?*

In fiscal year 19-20, the Director expended \$72,429 and allotted 0.24 full-time equivalent employees to implement the SLP certification program.

#### *What disciplinary activity is there?*

During the period covered for this sunset review, fiscal years 15-16 through 19-20, there were 81 complaints filed, 29 violations were established, and 16 disciplinary actions taken against SLPs.

### Key Recommendations

- **Continue the Speech-language Pathology certification program for 11 years, until 2033.**
- **Allow the Director the discretion to extend the term of a provisional certification.**
- **Make insurance fraud or abuse a violation of the practice act.**
- **Clarify the requirements for Continued Professional Competency for SLPs.**

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## Background

### Sunset Criteria

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria<sup>1</sup> and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are guided by statutory criteria and sunset reports are organized so that a reader may consider these criteria while reading. While not all criteria are applicable to all sunset reviews, the various sections of a sunset report generally call attention to the relevant criteria. For example,

- In order to address the first criterion and determine whether a particular regulatory program is necessary to protect the public, it is necessary to understand the details of the profession or industry at issue. The Profile section of a sunset report typically describes the profession or industry at issue and addresses the current environment, which may include economic data, to aid in this analysis.
- To ascertain a second aspect of the first sunset criterion--whether conditions that led to initial regulation have changed--the History of Regulation section of a sunset report explores any relevant changes that have occurred over time in the regulatory environment. The remainder of the Legal Framework section addresses the third sunset criterion by summarizing the organic statute and rules of the program, as well as relevant federal, state and local laws to aid in the exploration of whether the program's operations are impeded or enhanced by existing statutes or rules.
- The Program Description section of a sunset report addresses several of the sunset criteria, including those inquiring whether the agency operates in the public interest and whether its operations are impeded or enhanced by existing statutes, rules, procedures and practices; whether the agency performs efficiently and effectively and whether the board, if applicable, represents the public interest.
- The Analysis and Recommendations section of a sunset report, while generally applying multiple criteria, is specifically designed in response to the tenth criterion, which asks whether administrative or statutory changes are necessary to improve agency operations to enhance the public interest.

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<sup>1</sup> Criteria may be found at § 24-34-104, C.R.S.

These are but a few examples of how the various sections of a sunset report provide the information and, where appropriate, analysis required by the sunset criteria. Just as not all criteria are applicable to every sunset review, not all criteria are specifically highlighted as they are applied throughout a sunset review. While not necessarily exhaustive, the table below indicates where these criteria are applied in this sunset report.

Sunset Criteria	Where Applied
(I) Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;	<ul style="list-style-type: none"> <li>• Profile.</li> <li>• History.</li> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendations 1 - 3.</li> <li>• Administrative Recommendation 1.</li> </ul>
(II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;	<ul style="list-style-type: none"> <li>• Profile.</li> <li>• History.</li> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendations 1 and 2.</li> </ul>
(III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;	<ul style="list-style-type: none"> <li>• History.</li> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendations 1 - 3.</li> <li>• Administrative Recommendation 1.</li> </ul>
(IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;	<ul style="list-style-type: none"> <li>• History.</li> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendations 1 - 3.</li> <li>• Administrative Recommendation 1.</li> </ul>
(V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;	<ul style="list-style-type: none"> <li>• Not Applicable.</li> </ul>
(VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;	<ul style="list-style-type: none"> <li>• Profile.</li> <li>• History.</li> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendation 1.</li> </ul>
(VII) Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;	<ul style="list-style-type: none"> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendations 1 - 3.</li> <li>• Administrative Recommendation 1.</li> </ul>

Sunset Criteria	Where Applied
(VIII) Whether the scope of practice of the regulated occupation contributes to the optimum use of personnel and whether entry requirements encourage affirmative action;	<ul style="list-style-type: none"> <li>• Profile.</li> <li>• History.</li> <li>• Legal Framework.</li> <li>• Program Administration.</li> <li>• Recommendations 1 and 2.</li> </ul>
(IX) Whether the agency through its licensing or certification process imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses or certifications that the agency denied based on the applicant's criminal history, the number of conditional licenses or certifications issued based upon the applicant's criminal history, and the number of licenses or certifications revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.	<ul style="list-style-type: none"> <li>• Legal Framework.</li> <li>• Program Administration.</li> </ul>
(X) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.	<ul style="list-style-type: none"> <li>• Recommendations 1 - 3.</li> <li>• Administrative Recommendation 1.</li> </ul>

## Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR’s website at [coprrr.colorado.gov](http://coprrr.colorado.gov).

The functions of the Director of the Division of Professions and Occupations (Director and Division, respectively) as enumerated in Article 305 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2022, unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Director pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of Division staff and the Director. During this review, the Director must demonstrate that the program serves the public interest. COPRRR’s findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

## Methodology

As part of this review, COPRRR staff interviewed educators and clinicians, reviewed records, interviewed representatives with state and national professional associations,

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interviewed representatives of other executive agencies, reviewed Colorado statutes and rules, and reviewed the laws of other states and the Audiology and Speech-language Pathology Interstate Compact.

The major contacts made during this review include, but are not limited to:

- American Speech-Language-Hearing Association
- Assistive Technology Partners
- Children’s Hospital Colorado
- Colorado Department of Education
- Colorado Medical Society
- Colorado Speech-Language Hearing Association
- Division of Professions and Occupations
- Metro Speech Language Network
- University of Colorado Boulder, Department of Speech, Language, and Hearing Sciences
- University of Northern Colorado, Department of Audiology and Speech-Language Sciences

In the spring of 2021, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of all speech-language pathologists (SLPs) who are licensed by the Director. The survey was sent to 3,278 SLPs; 8 emails were returned as undeliverable. The survey received 593 responses, which is an 18 percent response rate. Survey results may be found in Appendix A.

## Profile of the Profession

In a sunset review, COPRRR is guided by the sunset criteria located in section 24-34-104(6)(b), C.R.S. The first criterion asks whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation.

In order to understand the need for regulation, it is first necessary to understand what the profession does, where they work, who they serve and any necessary qualifications.

SLPs treat people of all ages who suffer from communication and swallowing problems. SLPs attempt to prevent, assess, diagnose, and treat speech, language, social communication, cognitive-communication, and swallowing disorders in their clients.<sup>2</sup> They help people with issues such as:<sup>3</sup>

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<sup>2</sup> American Speech-Language-Hearing Association. *Learn About the CSD Professions: Speech-Language Pathology*. Retrieved December 31, 2020, from <https://www.asha.org/students/speech-language-pathology/>

<sup>3</sup> American Speech-Language-Hearing Association. *Who Are Speech-Language Pathologists, and What Do*



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- Speech sounds – which is how sounds are spoken and how people put sounds together to form words;
  - Language – this is how a person comprehends what is heard or read and how words are used when verbalizing thoughts;
  - Literacy – this is how well an individual reads and writes. Some of those with speech and language problems may not read, spell, or write without issues;
  - Social communication – how suitably a person follows social norms such as taking turns or how to distance one’s self when speaking to another person;
  - Voice – how voices sound to others such as being hoarse or speaking loudly;
  - Fluency – how well a person’s speech flows. This is also called stuttering;
  - Cognitive-communication – these types of issues may involve memory, attention, problem solving, organization, and other thinking skills; and
  - Feeding and swallowing – also called dysphagia. This concerns the ability of a person to suck, chew, and swallow food and liquid.

SLPs need at least a master’s degree and the graduate programs may require applicants to have taken certain health-care-related prerequisites. Graduate programs typically include courses in speech and language development, age-specific speech disorders, alternative communication methods, and swallowing disorders. The graduate programs also include supervised clinical practice.<sup>4</sup> The University of Northern Colorado and the University of Colorado Boulder each offer a Master of Arts in speech-language pathology.<sup>5</sup>

SLPs often have changing roles, levels of responsibility, and client populations. In part, this is because they work in varied environments such as research, education, and health care. Because the demand for SLP services is high and the workplace is variable, part-time, full-time, and "as needed" basis employment are available. SLPs tend to cooperate on interdisciplinary teams with teachers, physicians, audiologists, psychologists, social workers, physical and occupational therapists, and rehabilitation counselors.<sup>6</sup>

It must be noted that in Colorado, if an SLP works in a public education setting, that SLP is required to be licensed by the Colorado Department of Education. That license is separate from the license under review in this report.

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*They Do?* Retrieved December 31, 2020, from <https://www.asha.org/public/who-are-speech-language-pathologists/>

<sup>4</sup> U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook; Speech-language Pathologists*. Retrieved August 3, 2021, from <https://www.bls.gov/ooh/health-care/speech-language-pathologists.htm#tab-4>

<sup>5</sup> American Speech-Language-Hearing Association. *ASHA EdFind*. Retrieved August 3, 2021, from [https://find.asha.org/ed/#sort=relevancy&f:@degreeprogram=\[Master's%20Degree%20in%20Speech-Language%20Pathology\]&f:@state=\[Colorado\]](https://find.asha.org/ed/#sort=relevancy&f:@degreeprogram=[Master's%20Degree%20in%20Speech-Language%20Pathology]&f:@state=[Colorado])

<sup>6</sup> American Speech-Language-Hearing Association. *Learn About the CSD Professions: Speech-Language Pathology*. Retrieved December 31, 2020, from <https://www.asha.org/students/speech-language-pathology/>

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The sixth sunset criterion requires COPRRR to evaluate the economic impact of regulation. One way this may be accomplished is to review the expected salary of the profession.

In May 2020, the average wage for SLPs in the U.S. was \$80,480 per year. Job prospects are positive, and opportunities are projected to grow 29 percent from 2020 to 2030, which is faster than the average for all occupations. It is an expected result of a need to replace workers that switch occupations or retire.<sup>7</sup>

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<sup>7</sup> U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook; Speech-language Pathologists*. Retrieved September 17, 2021, from <https://www.bls.gov/ooh/health-care/speech-language-pathologists.htm>

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## Legal Framework

### History of Regulation

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by the sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The first sunset criterion questions whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less or the same degree of regulation.

One way that COPRRR addresses this is by examining why the program was established and how it has evolved over time.

In August 2010, the Colorado Speech-Language-Hearing Association submitted a sunrise application to the Department of Regulatory Agencies' COPRRR. COPRRR declined to conduct a sunrise review because a majority of other states regulated speech-language pathologists (SLPs).

House Bill 12-1303, created the regulatory program for SLPs.

House Bill 15-1373 created a provisional certification to aid SLPs in completing the required clinical fellowship.

A 2016 sunset review recommended that the program continue until 2022 and made no other substantive recommendations.

During the 2019 legislative session, the General Assembly recodified Title 12, C.R.S. At that time, Article 43.7 was repealed and reenacted as Article 305. Though there were changes in the manner in which the law reads, and many provisions of law were combined with common elements of other laws, none of those changes affected the implementation or enforcement of the Speech-language Pathology Practice Act (Act).

On May 28, 2021, the Governor signed a law allowing Colorado to participate in the multistate Audiology and Speech-language Pathology Interstate Compact. In short, the compact allows a participating states' credentialed SLPs to practice in the other compact states.

### Legal Summary

The second and third sunset criteria question

Whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the

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public interest and are within the scope of legislative intent; and

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters.

A summary of the current statutes and rules is necessary to understand whether regulation is set at the appropriate level and whether the current laws are impeding or enhancing the agency's ability to operate in the public interest.

The Act is Article 305 of Title 12, C.R.S. The Act provides for the certification of SLPs and empowers the Director of the Division of Professions and Occupations (Director and Division, respectively) as the implementing authority, including the ability to promulgate rules.<sup>8</sup> The Act requires that any person, unless they there are a school SLP, be certified before practicing speech-language pathology.<sup>9</sup> It also prevents a person from using any of several specifically enumerated titles or generally accepted terms, letters, and figures that designate a certified SLP.<sup>10</sup> If a person practices or attempts to practice without a certification, he or she commits a class 2 misdemeanor for a first offense and a class 1 misdemeanor for a second or subsequent offense.<sup>11</sup>

The scope of what SLPs are responsible for is quite broad. In part, this is because SLPs work in varied settings doing evaluations and assessments, planning, and treating. They also perform prevention, advocacy, administration, and research.<sup>12</sup> According to the Act, speech-language pathology is:<sup>13</sup>

[T]he application of principles, methods, and procedures related to the development, disorders, and effectiveness of human communication and related functions, which includes providing prevention, screening, consultation, assessment or evaluation, treatment, intervention, management, counseling, collaboration, and referral services for disorders of:

- Speech, such as speech sound production, fluency, resonance, and voice;
- Language, such as phonology, morphology, syntax, semantics, pragmatic and social communication skills, and literacy skills;
- Feeding and swallowing; and
- Cognitive aspects of communication, such as attention, memory, executive functioning, and problem solving.

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<sup>8</sup> § 12-305-115, C.R.S.

<sup>9</sup> § 12-305-106, C.R.S.

<sup>10</sup> § 12-305-105, C.R.S.

<sup>11</sup> § 12-305-114, C.R.S.

<sup>12</sup> § 12-305-102(1)(c), C.R.S.

<sup>13</sup> § 12-305-104(4)(a), C.R.S.

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Moreover, speech-language pathology consists of creating communication plans that include:<sup>14</sup>

- Developing, selecting, and prescribing augmentative or alternative communication systems and devices, such as speech generating devices;
- Providing services to individuals with hearing loss and their families, such as auditory training, speech reading, or speech and language intervention secondary to hearing loss;
- Screening individuals for hearing loss or middle ear pathology using conventional pure-tone air conduction methods, including otoscopic inspection, otoacoustic emissions, or screening tympanometry;
- Using instrumentation such as videofluoroscopy, endoscopy, or stroboscopy to observe, collect data, and measure parameters of communication and swallowing;
- Selecting, fitting, and establishing effective use of prosthetic or adaptive devices for communication, swallowing, or other upper aerodigestive functions, not including sensory devices used by individuals with hearing loss or the orthodontic movement of teeth for the purpose of correction of speech pathology conditions; and
- Providing services to modify or enhance communication performance, such as accent modification and personal or professional communication efficacy.

### Certification

The Act requires that an applicant for SLP certification must have a Master's degree or higher from an accredited institution in communication sciences, an approved clinical fellowship, a passing score on an adopted examination,<sup>15</sup> and maintain professional liability insurance (if the candidate intends on working with patients).<sup>16</sup>

A regular SLP certification is subject to renewal based on a schedule determined by the Director. If a person practices on an expired certification he or she may be penalized according to provisions of the Act.<sup>17</sup>

A provisional certification is given to SLPs who are in the process of completing their clinical fellowships. A provisional certificate holder may only practice under the general supervision of an SLP with a certificate of clinical competence and the qualifications adopted by the Director.<sup>18</sup> The process of obtaining a provisional SLP certification is the same as the full certification except the applicant must also submit a plan for the completion of a speech-language pathology clinical fellowship.<sup>19</sup> A provisional certification expires 24 months after it is issued and is not renewable.<sup>20</sup>

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<sup>14</sup> § 12-305-104(4)(b), C.R.S.

<sup>15</sup> § 12-305-107, C.R.S.

<sup>16</sup> § 12-305-107(2), C.R.S.

<sup>17</sup> §§ 12-305-107(5) and 12-20-202(1), C.R.S.

<sup>18</sup> § 12-305-108(5), C.R.S.

<sup>19</sup> § 12-305-108, C.R.S.

<sup>20</sup> § 12-305-108(4), C.R.S.

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An SLP is able to receive a certification by endorsement if he or she holds a valid credential from a jurisdiction that has requirements that are substantially equivalent to those of Colorado, has practiced or maintained competency the appropriate amount of time, and maintains professional liability insurance as needed.<sup>21</sup>

Every SLP is responsible for maintaining patient records according to a written plan that accounts for storage and disposal. The plan must include how the patient will access records in the event of the SLP's death.<sup>22</sup>

### Continuing Professional Competency

The Act dictates that the Director establish a continuing professional competency (CPC) program. Each SLP must complete its requirements prior to renewal or reinstatement of a certification. CPC is an,<sup>23</sup>

ongoing ability of a speech-language pathologist to learn, integrate, and apply the knowledge, skill, and judgment to practice as a speech-language pathologist according to generally accepted standards and professional ethical standards.

The Act requires the CPC program to contain:<sup>24</sup>

- A self-assessment of the knowledge and skills of a speech-language pathologist seeking to renew or reinstate a certification;
- Development, execution, and documentation of a learning plan based on the assessment; and
- Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession.

However, the Act also provides that an SLP meets the CPC requirements, if he or she satisfies the CPC requirements of an accrediting body approved by the Director or any entity approved by the Director.<sup>25</sup>

### Discipline

When the Director has determined that a certificate holder has violated the Act, he or she may discipline that individual. Among the actions that may be taken are a letter of admonition, probation, fine, or to deny, revoke, or suspend the certification.<sup>26</sup> If a certification is revoked, that SLP is not eligible to apply for a new certificate for two

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<sup>21</sup> § 12-305-107(4), C.R.S.

<sup>22</sup> § 12-305-118(1), C.R.S.

<sup>23</sup> § 12-305-109(5), C.R.S.

<sup>24</sup> § 12-305-109(1)(b), C.R.S.

<sup>25</sup> § 12-305-109(2), C.R.S.

<sup>26</sup> § 12-20-404(1), C.R.S.

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years.<sup>27</sup> All fines are conveyed to the State General Fund.<sup>28</sup>

A letter of admonition may be issued if there is an instance of misconduct that does not warrant formal action but should not be dismissed as having no merit. The Director must inform the SLP that he or she, within 20 days, has the right to request, in writing, formal disciplinary proceedings on the issue.<sup>29</sup> Similarly, if a complaint or investigation indicates no formal action is necessary and should be dismissed but the Director detected errant conduct that could lead to serious consequences if not corrected, the Director may issue a confidential letter of concern.<sup>30</sup>

Among the violations of the Act that could warrant disciplinary action are:<sup>31</sup>

- Engaging in a sexual act with a client while a therapeutic relationship exists or within six months immediately following;
- Falsifying information in an application;
- Having an alcohol or substance use disorder;<sup>32</sup>
- Using alcohol, habit forming drugs, controlled substances, or drugs that have a similar affect, habitually;
- Failing to notify the Director of a physical illness, physical condition, or behavioral, mental health, or substance use disorder that influences the ability to deliver services with reasonable skill and safety;
- Failing to obtain a physical or mental examination when ordered by the Director;
- Failing to act within the limitations generated by a physical illness, physical condition, or behavioral, mental health, or substance use disorder;
- Failing to comply with practice modifications agreed to under a confidential agreement;
- Violating or knowingly helping a person violate the Act;
- Failing to answer a Director's request or order, or respond to a complaint;
- Being convicted of or pleading *nolo contendere* to a crime related to one's practice;
- Using fraud to obtain or renew a certification or liability coverage;
- Failing to refer a client when the necessary treatment is beyond the SLP's scope or training;
- Not meeting generally accepted SLP standards or endangering a client's health and safety, either deliberately or carelessly; and
- Failing to maintain records in accordance with the Act.

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<sup>27</sup> § 12-20-404(3), C.R.S.

<sup>28</sup> § 12-20-404(6), C.R.S.

<sup>29</sup> § 12-20-404(4), C.R.S.

<sup>30</sup> § 12-20-404(5), C.R.S.

<sup>31</sup> § 12-305-112(2), C.R.S.

<sup>32</sup> The Director has the discretion not to discipline if the certificate holder participates in good faith in an approved alcohol or substance use disorder treatment program.

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The Director may seek an injunction to stop a person from violating the Act. The Director is empowered to investigate, hold hearings, and gather evidence when he or she has reasonable grounds to believe an SLP has violated the Act. All hearings must be held according to the provisions of the State Administrative Procedure Act and all of the Director's final actions are subject to judicial review.<sup>33</sup>

When the Director believes, with reasonable cause, an SLP cannot practice with reasonable skill and safety, he or she may order the SLP to undergo a physical or mental examination. If the certificate holder refuses, the Director may suspend the practitioner's ability to practice until a determination of fitness to practice can be made by the Director.<sup>34</sup> The Director's order must cite the reasonable cause.<sup>35</sup> The Director may enter into a confidential agreement with the SLP to limit practice based on the results of the examination.<sup>36</sup> The results of an examination cannot be used in any proceeding other than the one the Director has cited and they are not a matter of public record.<sup>37</sup>

In addition to licensing requirements, SLPs are required to comply with the "Michael Skolnik Medical Transparency Act of 2010" (Skolnik Act). The purpose of the Skolnik Act is to provide transparency concerning the competency of health-care professionals. Compliance requires health-care professionals to enter data into an online database concerning malpractice insurance settlements and criminal convictions, among other information that may be important to the consumers of professional services.<sup>38</sup>

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<sup>33</sup> §§ 12-305-113(1), 113(2), 113(3), and 113(4), C.R.S.

<sup>34</sup> § 12-305-116(1), C.R.S.

<sup>35</sup> § 12-305-116(2), C.R.S.

<sup>36</sup> § 12-30-108, C.R.S.

<sup>37</sup> § 12-305-117(1), C.R.S.

<sup>38</sup> § 12-30-102, C.R.S.



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## Program Description and Administration

In a sunset review, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is guided by sunset criteria located in section 24-34-104(6)(b), Colorado Revised Statutes (C.R.S.). The third and fourth sunset criteria question:

Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures practices and any other circumstances, including budgetary, resource and personnel matters; and

Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively.

In part, COPRRR utilizes this section of the report to evaluate the agency according to these criteria.

The Director of the Division of Professions and Occupations (Director and Division, respectively) is authorized by the Speech-language Pathology Practice Act (Act), located in Article 305 of Title 12, C.R.S., to certify qualified speech-language pathologists (SLPs). Table 1 enumerates the monetary and labor resources expended by the Division on the certification program during the years examined for this sunset review.

**Table 1  
Expenditures**

Fiscal Year	Total Program Expenditure	Full-Time Equivalent
15-16	\$78,840	0.25
16-17	\$59,746	0.25
17-18	\$67,179	0.20
18-19	\$72,706	0.20
19-20	\$72,429	0.24

Table 1 illustrates that the Division does not expend many resources on the SLP certification program. Labor averaged less than one-quarter of a full-time equivalent employee (FTE) annually and monetary expenditures averaged just over \$70,000 per fiscal year. There was variation in the dollars expended, in the range of about 25 percent. However, the variation in actual dollars expended was in the range of less than \$20,000 during the entire time cohort, which is stable for a program of this nature. A small increase in personnel, legal fees, or expert opinions can show up as a large percentage increase in program expenditures.

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During fiscal year 20-21, the program FTE was allotted as such:

- Program Management III, 0.04 FTE - This position performs overall management of multiple programs as a second-level supervisor. This position directs the implementation of policies, rules, and regulations, and supports the strategic goals and objectives of the Division. This position also performs direct personnel supervision of multiple Program Directors.
- Program Management II, 0.05 FTE - This position performs overall management of program, personnel management, complaint resolution, stakeholder engagement, outreach, and education.
- Administrative Assistant III, 0.05 FTE - This position performs complaint intake, correspondence, case summary preparation, and final action processing.
- Technician IV, 0.10 FTE - This position performs case management, correspondence, case summary preparation, practice monitoring, initial decision follow-up, and expedited settlement referrals, and Office of the Attorney General referrals.

The number of FTE reflected in the table does not include employees in the centralized offices of the Division that provide management, licensing, administrative, technical, and investigative support to the Director. However, the cost of those FTE is reflected in the total program expenditures.

## Certification

To become certified in Colorado, a candidate must have at least an approved Master's degree in communication sciences and disorders or speech-language pathology; successfully complete a speech-language pathology clinical fellowship approved by the Director or the American Speech-Language-Hearing Association (ASHA);<sup>39</sup> and pass a Director-approved or ASHA examination.<sup>40</sup>

Alternatively, an applicant who has a valid ASHA Certificate of Clinical Competence may apply.<sup>41</sup>

Qualified individuals must submit an application with the fee as well as:<sup>42</sup>

- Confirm that she or he will maintain professional liability insurance coverage before providing services to clients,
- Guarantee that she or he developed a written plan ensuring the security of patient records,
- Confirm that all the information in the application is correct, and

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<sup>39</sup> 4 CCR §§ 748-1 1.2(A) and 1.2(B), Speech-Language Pathologist Rules and Regulations.

<sup>40</sup> 4 CCR § 748-1 1.3(A), Speech-Language Pathologist Rules and Regulations.

<sup>41</sup> 4 CCR § 748-1 1.2(C), Speech-Language Pathologist Rules and Regulations.

<sup>42</sup> 4 CCR § 748-1 1.1 Speech-Language Pathologist Rules and Regulations.

- Provide any other information required by the Director.
- Table 2 lists the number of SLPs that were certified by the Director during the fiscal years examined for this sunset review.

**Table 2  
SLP Certifications**

<b>Fiscal Year</b>	<b>New Examinations</b>	<b>Endorsement</b>	<b>Renewal</b>	<b>Total</b>
15-16	161	206	1,769	2,138
16-17	165	207	2,007	2,438
17-18	182	189	2,224	2,424
18-19	216	187	2,429	2,890
19-20	168	212	2,639	3,068

Table 2 shows that the number of active certified SLPs has increased approximately 43.5 percent during the time cohort studied. Division staff did not know what has driven the increase other than it is a newer program and more people are becoming certified. Table 2 enumerates that the Director certified an average of 378 new SLPs annually.

The Director also issues non-renewable provisional certificates to those who are completing a statute-required clinical fellowship prior to certification. Table 3 shows the number of provisional certificates issued during the time examined for this sunset review.

**Table 3  
Provisional Certificates Issued**

<b>Fiscal Year</b>	<b>Provisional Certifications</b>
15-16	137
16-17	141
17-18	137
18-19	132
19-20	126

Table 3 notes that the number of provisional credentials issued was fairly steady, varying only 10.5 percent throughout the time cohort.

The SLP certification program is cash-funded. Program operations are paid through certification fees. In fiscal year 19-20, the fee for an initial certification was \$145, to renew a certification was \$7, and to have a certification reinstated was \$22. The fee for a provisional license was \$15 and it cannot be renewed.

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Colorado SLP certifications expire on November 30 each year. All new applicants who are issued their certification within 120 days of the upcoming expiration date are issued a license with the next year's expiration date.

## Examinations

The eighth sunset criterion questions whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Act requires that to become certified, an SLP must pass an examination adopted by the Director.<sup>43</sup> The Director has adopted the ASHA national examination, or one that is substantially equivalent, as the standard.<sup>44</sup> The ASHA examination is administered by ETS Praxis in several locations around Colorado and the fee during August 2021 was \$146. The examination covers the foundations, factors and treatments that affect communication and ethical and regulatory framework for SLP practice.<sup>45</sup> The national passing rate for the examination from 2014-2019 was approximately 90 percent.<sup>46</sup>

## Continued Professional Competency

Prior to renewal of a certification every SLP must complete continued professional competency (CPC) requirements. Successful completion can happen multiple ways:<sup>47</sup>

- Completing the Continuing Professional Development (CPD) program,
- Achieving deemed status by completing CPC through an accrediting body or an entity approved by the Director, or
- Obtaining a military exemption.

The CPD program requires an SLP to complete the Division's Reflective Self-Assessment Tool (RSAT), executing a learning plan based on the RSAT, and completing 10 professional development activities per annual renewal period.<sup>48</sup> Professional

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<sup>43</sup> § 12-305-107(1)(c), C.R.S.

<sup>44</sup> 4 CCR § 748-1 1.3(A), Speech-Language Pathologist Rules.

<sup>45</sup> Educational Testing Service. *The Praxis Study Companion, Speech-Language Pathology 5331*. Retrieved August 3, 2021, from <https://www.ets.org/s/praxis/pdf/5331.pdf>

<sup>46</sup> ASHA. *Praxis Scores and Reports*. National Summary Report for Praxis Data in Speech-Language Pathology [PDF]. Retrieved June 17, 2021, from [https://www.asha.org/certification/praxis/praxis\\_scores/](https://www.asha.org/certification/praxis/praxis_scores/)

<sup>47</sup> 4 CCR § 748-1 1.9(B)(1), Speech-Language Pathologist Rules.

<sup>48</sup> 4 CCR § 748-1 1.9(C), Speech-Language Pathologist Rules.

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development activities include:

- Volunteer Service,
- Mentoring and Supervision,
- Presentations,
- Coursework,
- Independent Learning, and
- Group Study.

The Division audits CPC submissions to ensure compliance.

## Complaint and Disciplinary Activity

The seventh sunset criterion requires COPRRR to examine whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Director or any individual may file a complaint against an SLP if he or she believes that the SLP has violated provisions of the Act. Table 4 indicates the complaints fielded by the Director during the fiscal years listed.

**Table 4**  
**SLP Complaint Data**

Alleged Violation	Fiscal Year 15-16	Fiscal Year 16-17	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20
Unlicensed Practice	2	5	5	8	7
Standard of Practice	1	2	4	5	3
Scope of Practice	0	0	1	0	0
Substance Abuse	0	0	1	0	1
Felony Conviction	0	0	2	1	2
Other	5	8	8	7	11
<b>TOTAL</b>	<b>8</b>	<b>15</b>	<b>21</b>	<b>21</b>	<b>24</b>

Table 4 shows that given the number of certificate holders, 3,068 in fiscal year 19-20, there are very few complaints made. The two categories that received the majority of complaints are “Unlicensed Practice” and “Other.” Most of the complaints in the “Other” category concern unprofessional conduct, which is not listed as a specific violation in the Act. In those cases, the Division investigates and determines if the complaint actually is a violation enumerated in the Act. If it is, it then recategorizes it

as such. Table 5 lists the found violations.

**Table 5  
Found Violations**

<b>Found Violation</b>	<b>Fiscal Year 15-16</b>	<b>Fiscal Year 16-17</b>	<b>Fiscal Year 17-18</b>	<b>Fiscal Year 18-19</b>	<b>Fiscal Year 19-20</b>
Practicing with a Suspended Certification	2	0	0	0	0
Felony Conviction	0	0	0	1	0
Negligent Practice	0	2	0	0	0
Standards of Practice	1	2	0	2	1
Record Keeping	0	4	0	3	1
Unspecified General Violation	0	8	0	1	0
Liability Insurance	0	0	0	0	1
<b>TOTAL</b>	<b>3</b>	<b>16</b>	<b>0</b>	<b>7</b>	<b>3</b>

Table 5 does not indicate a pattern of found violations based on year or violation. Table 6 indicates the actions taken by the Director on the complaints.

**Table 6  
Final Actions**

<b>Action</b>	<b>Fiscal Year 15-16</b>	<b>Fiscal Year 16-17</b>	<b>Fiscal Year 17-18</b>	<b>Fiscal Year 18-19</b>	<b>Fiscal Year 19-20</b>
Cease and Desist Order	0	0	0	0	1
Letter of Admonition	0	2	0	2	1
Stipulation	1	1	1	2	3
Voluntary License Surrender	0	0	0	1	1
<b>Total Disciplinary Actions</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>5</b>	<b>6</b>
Dismiss	0	4	3	13	11
Letter of Concern	3	6	3	6	12
<b>Total Dismissals</b>	<b>3</b>	<b>10</b>	<b>6</b>	<b>19</b>	<b>23</b>

Table 6 shows that a large majority of cases are dismissed either outright or with a confidential letter of concern. When the Director issues a confidential letter of

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concern, he or she informs the individual that the actions in the case did not warrant formal discipline. However, if the individual’s actions do not change, there could be a violation if there is a reoccurrence.

Table 7 lists the average time it took to process a complaint through final disposition.

**Table 7**  
**Case Processing Time**

<b>Fiscal Year</b>	<b>Average Case Processing</b>
15-16	239 Days
16-17	114 Days
17-18	190 Days
18-19	199 Days
19-20	131 Days

The case processing times vary quite a bit. There are several factors that contribute to the length of time a case is open such as nature of the complaint, complexity of the investigation, and type of penalty imposed, if any.

### **Collateral Consequences - Criminal Convictions**

The ninth sunset criterion requires COPRRR to examine whether the agency under review, through its licensing processes, imposes any sanctions or disqualifications based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

In part, COPRRR utilizes this section of the report to evaluate the program according to this criterion.

The Division reported that no actions were taken due to criminal history.

### **COVID-19 Response**

The COVID-19 pandemic placed extraordinary pressures on the citizens of Colorado, the Colorado economy and Colorado state government. As a result, COPRRR asked the Director to summarize any measures the agency may have implemented in response to the COVID-19 pandemic, the results of those efforts and any lessons learned. This section of the report is intended to provide a high-level summary of those responses.

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The Division of Professions and Occupations took several key steps in responding to the COVID-19 pandemic, including:

- Working with the Governor's Office to issue Executive Order D 2020 038 - Medical Workforce Surge, which included, but was not limited to modifying/suspending numerous aspects of the health-care professions' practice acts, including allowing for greater flexibility in delegation and expanded scopes of practice;
- Expanding the use of telehealth;
- Quickly transitioning to near 100 percent work-from-home for Division employees;
- Expanding the scopes of practice for several health-care professions so that they could administer the COVID-19 vaccine; and
- Closely coordinated with other state agencies, such as the Department of Public Health and Environment (CDPHE), in issuing guidance and helping stakeholders navigate the demarcation between the Division and other state agencies.

The COVID-19 pandemic revealed a few regulatory gaps as well, including:

- The relative paucity of regulatory guidance on the use of telehealth;
- The unclear lines between the Division, the Department of Regulatory Agencies and CDPHE, particularly in health-care settings; and
- The need for the Division to be able to act more quickly in the face of another, future event like the COVID-19 pandemic.

While the full impact of many of the changes implemented by the Division are not yet fully understood, some key learning points include:

- Telehealth is here to stay,
- Coordinating efforts with other state agencies was essential to the Division's successful and timely response to the COVID-19 pandemic,
- Utilization of existing statutory authority aided in the Division's successful and timely response to the COVID-19 pandemic,
- Regulatory speed is key to successfully responding to a pandemic, and
- Emergency, remote work has proven efficient and allowed for continuity of services.



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## Analysis and Recommendations

The final sunset criterion questions whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest. The recommendations that follow are offered in consideration of this criterion, in general, and any criteria specifically referenced in those recommendations.

### **Recommendation 1 - Continue the Speech-language Pathology Practice Act for 11 years, until 2033.**

One of the primary tasks in a sunset review is to examine a regulated profession to determine whether regulation is necessary to protect consumers and make recommendations to the General Assembly. The first statutory criterion adopted by the General Assembly asks:

Whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions that led to the initial regulation have changed; and whether other conditions have arisen that would warrant more, less, or the same degree of regulation;

This criterion asks analysis to first determine if actual public harm has occurred. However, if no documented harm occurred, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) is obligated to look deeper for less obvious reasons that the public may need to be protected from professional misconduct or abuse. COPRRR must determine the types and degree of harm to the public health, safety, and welfare that is likely to occur without continued regulation. This sunset review did not conclude that there is an excess of harm to consumers committed by speech-language pathologists (SLPs).

Notwithstanding, a major reason to continue certification of SLPs, is because SLPs work in acute care settings helping clients with rehabilitation after a trauma such as a major injury or stroke. An SLP may be required to assess and treat swallowing disorders, respiratory issues, and work with clients who use ventilators or have tracheostomies. In such cases, there is potential for severe injury if someone is untrained and not certified. Though it is more pronounced in the acute care setting, in most settings SLPs must be able to work cooperatively on a team with other health-care professionals. To do so effectively, an SLP must understand what roles people play on the team and be able to communicate with team members in the specialized language and terminology required in the specific setting. High stakes surroundings require the competence and accountability that the mandated education and training incorporate.

SLPs sometimes work with clients that have cognitive and communicative issues of varying acuity. A person who has a traumatic brain injury or one who suffers from dementia may benefit from the therapeutic interventions administered or prescribed by an SLP. As with the acute care setting, if an SLP works in this environment,

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specialized training is necessary. SLPs must communicate with the individual clients, physical and occupational therapists, family members, and others to develop the necessary cognitive interventions that will make the most of an individual's ability to function.

The setting in which most people are familiar with SLPs is working with young people. Pediatric SLPs help children communicate by creating interventions to aid verbal and non-verbal language skills. Individual interventions depend on what the problems are and what outcomes are desired, but with this demographic, the treatments must feel more like play than work to be successful.

These diverse settings mean that SLP training and regulation must also concentrate on ensuring that each SLP knows the limits of his or her training. Regulation requires that an SLP make the suitable referral when necessary. This means an SLP must have some rudimentary knowledge of medicine, dentistry, audiology, psychology, behavior therapy, occupational therapy, physical therapy, or any other pertinent profession. Because SLPs are regulated, failure to act professionally or refer appropriately, could mean that an SLP loses the ability to practice. This may not be the case if SLPs were not certified by the State.

A commonality among the groups of clients mentioned above, those in an acute care setting, those with some cognitive disorder, and children, is that they tend to be more vulnerable than the mainstream population. Though all clients are not vulnerable there can be no doubt that many are. Those who are vulnerable may not be able to question practices or therapies and some may not be able to convey or transmit if they are abused or harmed. Many SLPs work in clinical and educational settings where competence is more closely monitored but some work in one-on-one situations and in-home care where it is not. While regulation is not a guarantee against negative outcomes and there were few instances of harm reported during this review, regulation can ensure minimal competence and stop an incompetent or predatory SLP from continuing to practice and harming consumers.

On one side, the profession is becoming more specialized based on the setting in which an SLP may choose to work. Another view illustrates that there is more standardization coming to the profession. During 2021, the General Assembly passed, and the Governor signed Senate Bill 21-021. This is a law that allows Colorado-certified SLPs to participate in a multistate *Audiology and Speech-language Pathology Interstate Compact* (Compact).

There are multiple reasons the Compact is an asset in the regulation of SLPs. In short, section 3(F) of the Compact, standardizes education and training; Compact participation streamlines the process for Colorado certified SLPs to practice in states where they otherwise would not be able to practice (i.e., it opens the marketplace for Colorado-based professionals); and section 1(5) of the Compact, facilitates the exchange of disciplinary information among member states. Hence, the Compact increases regulatory scrutiny and accountability on the profession and members of the

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profession, which makes Colorado consumers safer. However, as a condition of participation in the Compact, SLPs must be regulated by their home state, so certification is necessary.

Taken together these premises make a strong argument for regulation, to ensure competency, to protect Colorado professionals in the marketplace, and protect the public from professional misconduct.

The second sunset criterion asks the General Assembly to consider that if regulation is necessary, is it the least restrictive form of regulation consistent with protecting the public interest? A certification program is a lower level of regulation. The state verifies that certain professional qualifications have been achieved. Given the type of work SLPs perform, the setting that some SLPs work in, and the clientele they work with, authenticating qualifications is essential and is the least onerous regulation consistent with public safety.

No major issues arose during the year-long research conducted for this sunset report and there does not appear to be any major issues for the profession on the horizon. It is therefore reasonable to conclude, that the General Assembly should continue the Speech-language Pathology Practice Act (Act) for 11 years until, 2033.

### **Recommendation 2 - Allow the Director the discretion to extend the term of a provisional certification.**

The Director of the Division of Professions and Occupations (Director and Division, respectively) is authorized by the Act to provide a provisional certification to individuals seeking to complete a required SLP clinical fellowship. The provisional certification is not renewable and is in effect for only 24 months from the date it is issued.<sup>49</sup>

During meetings between COPRRR and SLP stakeholders, some of the stakeholders raised a concern that the 24-month term for the provisional license may not long be enough for a person to complete the clinical fellowship in all cases. Because of the COVID-19 pandemic and facilities not operating as they typically would, it may not be possible for all provisionally certified SLPs to finish their clinical fellowships on time.

While as of the writing of this report there is no way to know if those particular concerns will come to pass, there is a solution that could apply to any such emergency situations moving forward. Other practice statutes allow the regulator to extend a temporary credential when circumstances necessitate such action. Candidates for licensure as a psychologist,<sup>50</sup> social worker,<sup>51</sup> marriage and family therapist,<sup>52</sup> licensed professional

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<sup>49</sup> § 12-305-108, C.R.S.

<sup>50</sup> § 12-245-304(3)(b), C.R.S.

<sup>51</sup> § 12-245-404(3)(b), C.R.S.

<sup>52</sup> § 12-245-504(4)(c), C.R.S.

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counselor,<sup>53</sup> and addiction counselor<sup>54</sup> may have their temporary licenses extended at the discretion of the regulator.

The first sunset criterion directs analysis to explore whether conditions have changed since initial regulation that would warrant a modification in regulation. COVID-19 certainly changed the conditions under which regulation exists. However, it also presented an opportunity to make systemic change that can benefit the regulated community without lessening the level of consumer protection that regulation provides. That opportunity exists in this case.

Therefore, the General Assembly should allow the Director to extend the term of an SLP's provisional license when he or she believes circumstances require an extension.

### **Recommendation 3 - Make insurance fraud or abuse a violation of the Act.**

The Director has received multiple complaints regarding insurance fraud and abuse. However, there is no such violation in the Act. When a complaint of that nature comes to the Division, cases must be processed under another, more generic violation such as unprofessional conduct or inadequate record keeping. When that occurs, specificity concerning the severity of harm may be lost and discipline inadequate compared to the SLP's actions. False, incorrect, or otherwise lacking documentation resulting in insurance fraud is a different degree of harm compared to merely inadequate documentation.

There also could be additional harm suffered by a consumer. For instance, there may be an inability to obtain more care if certain caps on insurance claims were reached.

Moreover, without a specific violation relating to insurance fraud or abuse, the Director has been forced to engage an expert during adjudication proceedings. This slows down the disciplinary process, which, unless there is a suspension in place, opens the door to additional consumer harm by the practitioner. Adding this violation to the grounds for discipline means the process will proceed quicker and less expensively.

The General Assembly has approved similar provisions in health-care-related laws such as the Mental Health Practice Act in sections 12-245-224(1)(d)(l) and 12-245-224(1)(v), C.R.S., the Respiratory Therapy Practice Act in section 12-300-109(2)(j), C.R.S., and the Chiropractors Practice Act in section 12-215-115(1)(j), C.R.S.

The third and fourth sunset criteria speak to ensuring program economic efficiencies. The seventh criterion asks analysis to consider if the public is adequately protected by complaint, investigation, and disciplinary procedures.

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<sup>53</sup> § 12-245-604(4)(c), C.R.S.

<sup>54</sup> § 12-245-804(3.7)(b), C.R.S.

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To make the program systemically more efficient and to better protect the public, the General Assembly should make insurance fraud or abuse a violation of the Act.

**Administrative Recommendation 1 - The Director should clarify the requirements for Continued Professional Competency for SLPs.**

There is confusion among the regulated population concerning what applies toward their Continuing Professional Competency (CPC) requirement. Program Rules require 10 hours of professional development activities per year. Among the acceptable activities is coursework.

To maintain a Certificate of Clinical Competence (CCC) from the American Speech-Language-Hearing Association (ASHA), ASHA requires 30 hours every three years. The Director accepts a CCC as evidence of deemed status toward satisfaction of the CPC requirement, per Speech-language Pathologist Program Rule 4 CCR section 748-1-1.9. (A)(3). Because neither rule nor the Act specifies ASHA, but rather refers to an accrediting body or entity approved by the Director, many SLPs are unclear whether they have satisfied the requirement. Some believe the program hours are in addition to the ASHA requirement because it specifies 10 hours per year rather than 30 hours every three years.

The Director can rectify any misunderstanding by communicating with the regulated population, via electronic media or some other efficient means, the applicability of the CCC and the 30 hours of coursework toward satisfaction of the CPC requirement.

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## Appendix A - Customer Service Survey

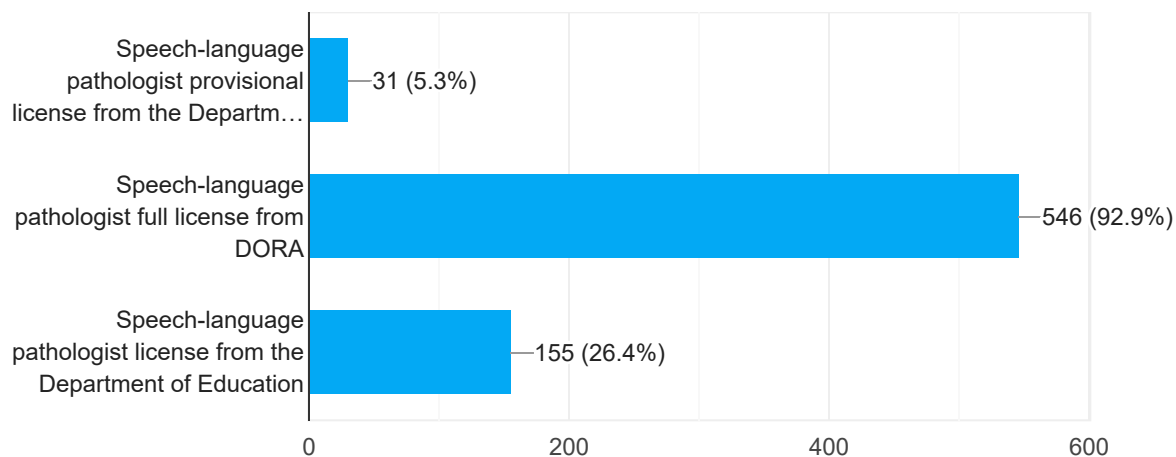
In the spring of 2021, Colorado Office of Policy, Research and Regulatory Reform staff conducted a survey of all speech-language pathologists (SLPs) who are licensed by the Director of the Division of Professions and Occupations. The survey was sent to 3,278 SLPs; 8 emails were returned as undeliverable. The survey received 593 responses, which is an 18 percent response rate. Survey results may be found on the pages that follow.

# Customer Service Survey for the Colorado Office of Speech-Language Pathology Certification

593 responses

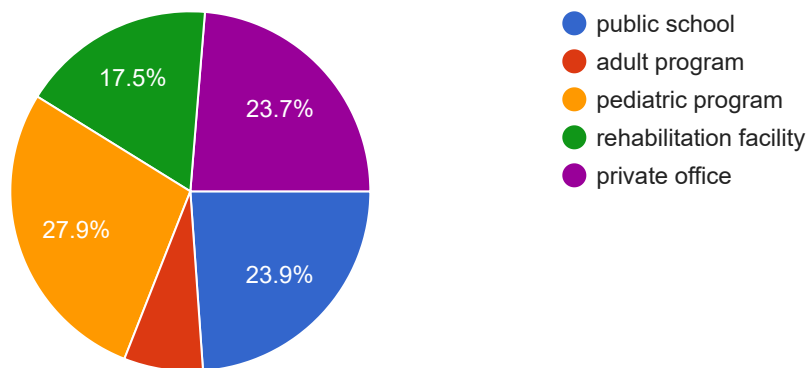
## What type of license do you hold? (Select all that apply.)

588 responses



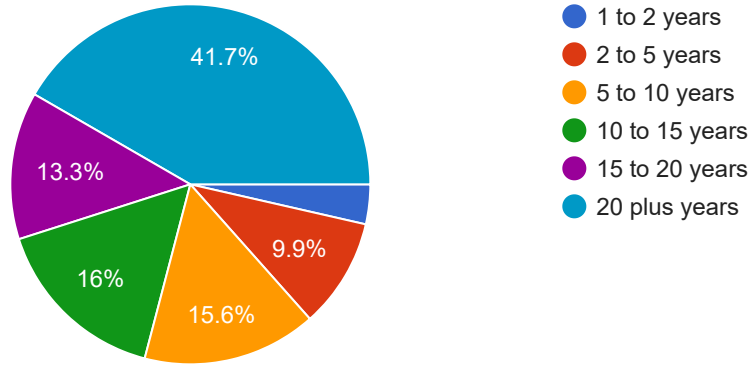
## I work primarily in the following setting. (Please select one.)

578 responses



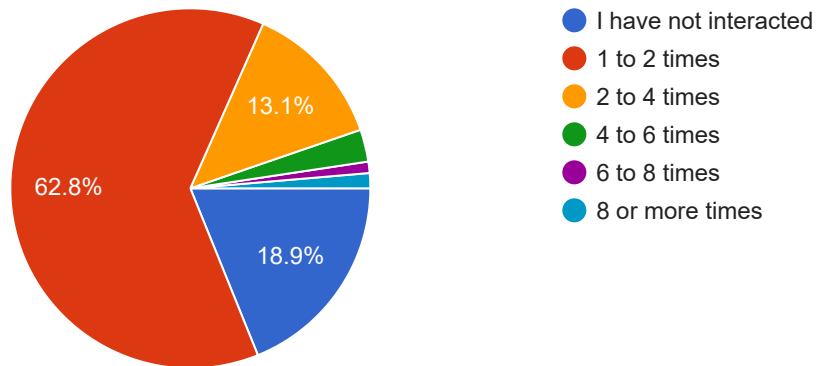
If you are a member of the profession or occupation that is regulated by the Office of Speech-Language Pathology Certification, please indicate your years of experience.

588 responses



In the past year, how many times have you interacted with the Office of Speech-Language Pathology Certification. Please count all forms of interaction (telephone, e-mail, internet or website, regular mail, in person).

588 responses





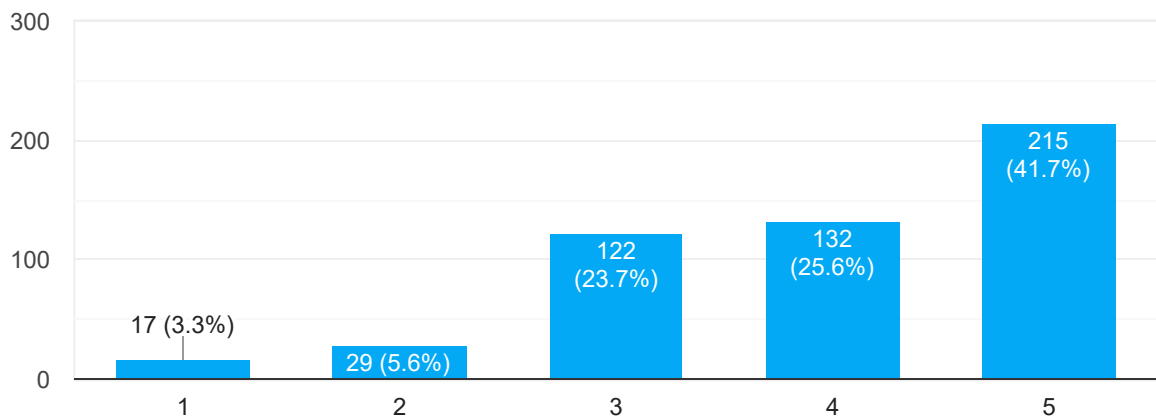
## What was your primary purpose in interacting with the office?

503 responses

- licensing and registration - 76.5
- update my information - 7.2%
- inspection, audit or examination - 3.4%
- continuing education - 3.4%
- obtain help with an issue - 3.0%
- comment on or learn about an existing/proposed rules or legislation -2.6%
- other - 3.9%

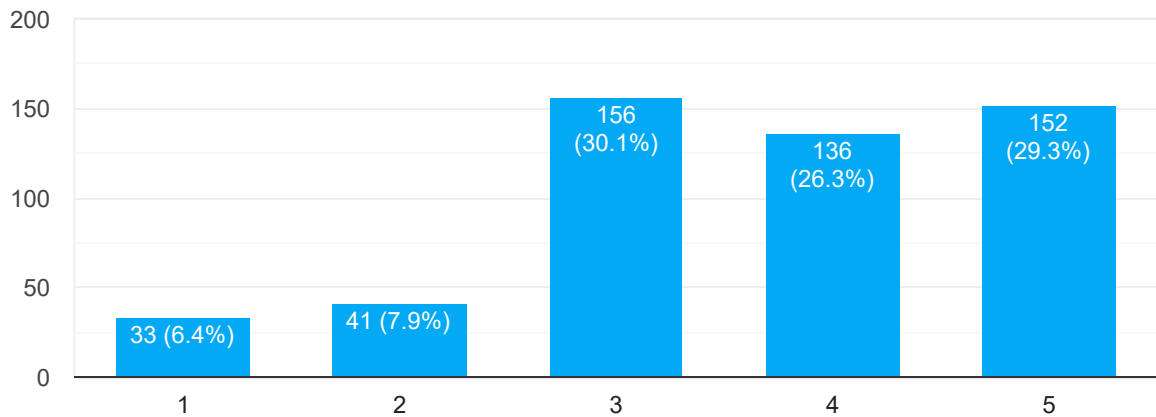
Overall please rate the service provided the Office of Speech-Language Pathology Certification on a scale of 1 to 5 with 1 being unacceptable and 5 being very acceptable.

515 responses



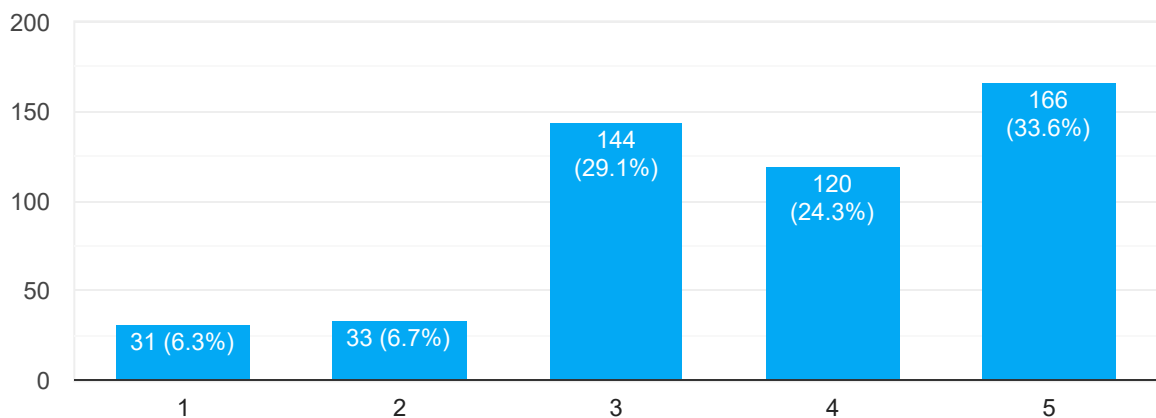
Please rate the usefulness of the Office of Speech-Language Pathology Certification's website in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

518 responses



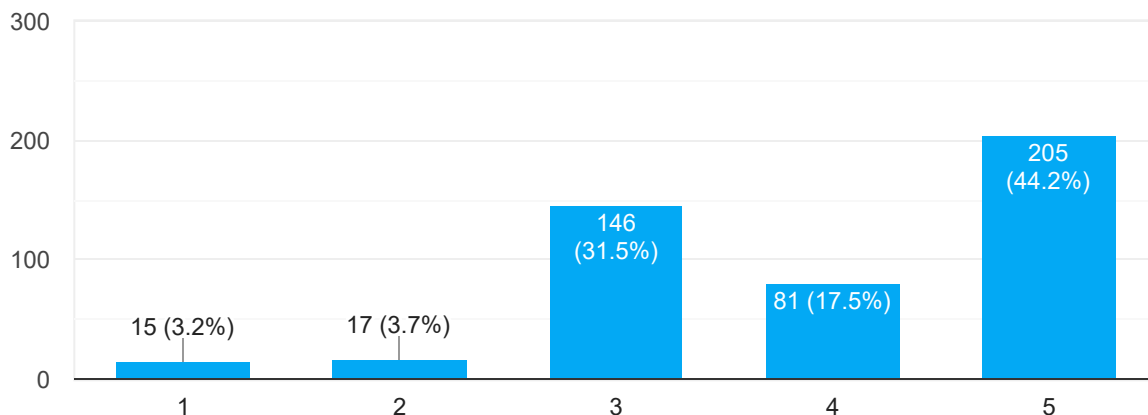
Please rate the usefulness of the Office of Speech-Language Pathologist Certification's communications in answering your questions or providing needed information on a scale of 1 to 5 with 1 being not very useful and 5 being very useful.

494 responses



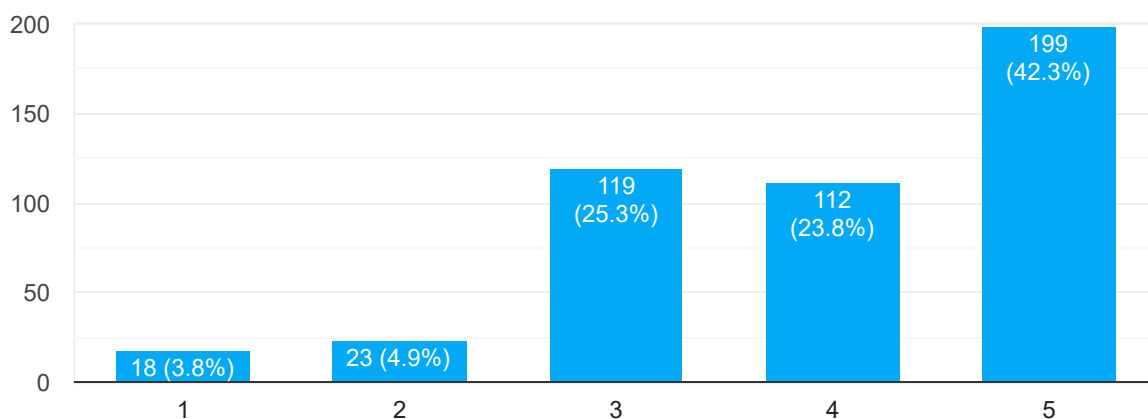
Regardless of the outcome of your most recent issue, do you feel the Office of Speech-Language Pathologist Certification listened to your concerns? Please use a scale of 1 to 5, with 1 being none of my concerns were heard and 5 being all of my concerns were heard.

464 responses

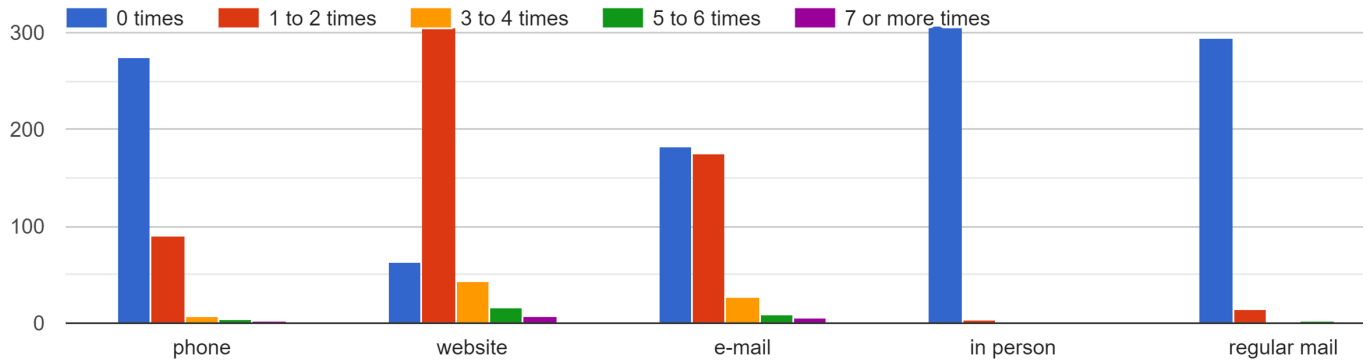


Please rate the timeliness of the Office of Speech-Language Pathologist Certification in responding to your issues on a scale of 1 to 5 with 1 being very untimely and 5 being very timely.

471 responses

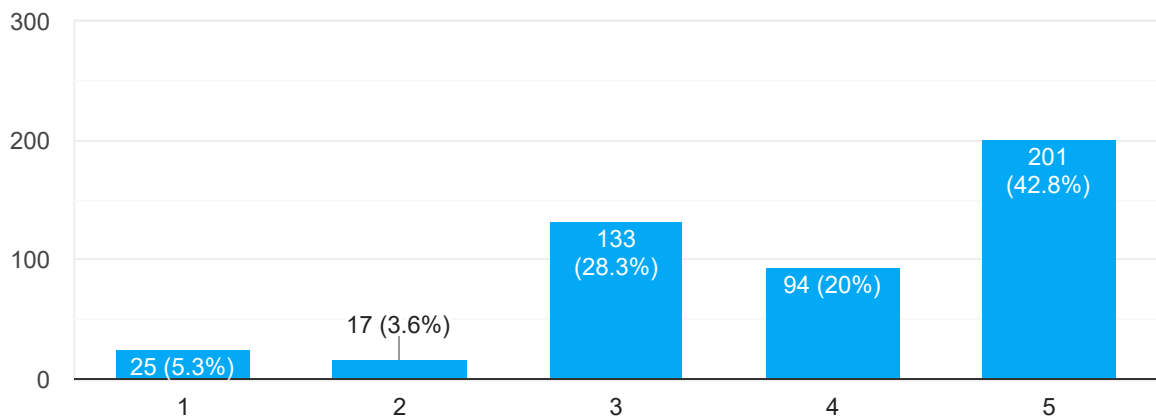


Please provide the number and types of interactions that were required to resolve or address your most recent issue. (Please select all applicable types of interactions used AND the number times for each type interaction selected.)



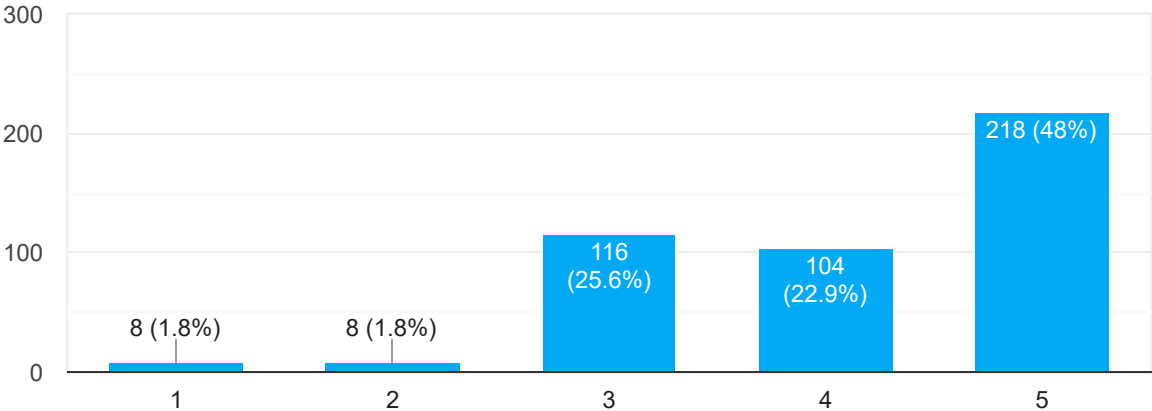
Please rate the helpfulness of the Office of Speech-Language Pathologist Certification in resolving your issue or need with 1 being not very helpful and 5 being very helpful.

470 responses



Please rate the professionalism of the program's staff on a scale of 1 to 5 with 1 being very unprofessional and 5 being very professional.

454 responses



On a scale of 1 to 5 please rate the accuracy of information provided by the office with 1 being not very accurate and 5 being very accurate.

462 responses

