



COLORADO

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2023 Sunrise Review

Speech-Language Pathology
Assistants



December 29, 2023



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

December 29, 2023

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 General Assembly established the sunrise review process in 1985 as a way to determine whether regulation of a certain profession or occupation is necessary before enacting laws for such regulation and to determine the least restrictive regulatory alternative consistent with the public interest. Pursuant to section 24-34-104.1, 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 June 30 and December 31.

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 its evaluation of the sunrise application for the regulation of speech-language pathology assistants and is pleased to submit this written report.

The report discusses the question of whether there is a need for regulation in order to protect the public from harm, whether regulation would serve to mitigate the harm and whether the public can be adequately protected by other means in a more cost-effective manner.

To learn more about the sunrise review process, among COPRRR's other functions, visit coprrr.colorado.gov.

Sincerely,

Patty Salazar
Executive Director



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Background

Sunrise Process

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review.

The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA's Colorado Office of Policy, Research and Regulatory Reform (COPRRR) must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:¹

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public;

(I.5) Whether the practitioners of the profession or occupation exercise independent judgment, and whether the public can reasonably be expected to benefit from the direct regulation of the profession or occupation if a practitioner's judgment or practice is limited or subject to the judgment or supervision of others;

(II) Whether the public needs, and can be reasonably expected to benefit from, an assurance of initial and continuing professional or occupational competence;

(III) Whether the public can be adequately protected by other means in a more cost-effective manner; and

(IV) Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must include a description of the proposed regulation and justification for such regulation.

¹ § 24-34-104.1(4)(b), C.R.S.

Methodology

During the sunrise review, COPRRR staff performed a literature search, contacted and interviewed the sunrise applicant, observed the practice of a speech-language pathology assistant, contacted regulators in Colorado, reviewed laws in other states and interviewed stakeholders. To determine the number and types of complaints filed against speech-language pathology assistants, COPRRR staff also contacted regulatory agencies in other states.

Profile of the Profession

A speech-language pathology assistant² (Assistant) is a health-care support worker who aids a speech-language pathologist (SLP) in assessing and treating disorders related to speech, language, voice and fluency.³

The central question of this report considers whether there is a need for the state to regulate Assistants. In order to understand what an Assistant is, it is first necessary to understand what an SLP does.

An SLP, sometimes referred to as a speech therapist, is a health-care practitioner who works with clients with communication disorders. An SLP may also treat patients who have trouble swallowing.⁴

When working with a client, an SLP evaluates any speech, language or swallowing difficulties and determines the client's goals. The SLP then creates and executes a treatment plan to address the client's needs. For instance, an SLP may instruct a client on how to make sounds, improve their voice and retain fluency. They may also assist clients with strengthening and developing the muscles necessary for swallowing. Additionally, an SLP may counsel the client and the client's family on how to cope with a speech or swallowing disorder.⁵

An SLP may specialize in working with a specific age group or speech or swallowing disorder caused by a medical issue or developmental delay. An SLP may also conduct research.⁶

An SLP may work in either a school or a clinical setting, such as a private practice, hospital, nursing facility or residential care facility.⁷ In Colorado, both SLPs and Assistants are required to obtain approval from the Colorado Department of Education in order to provide services in the public school system, and Assistants working in the schools must work under the supervision of an SLP.

² Other job titles used to refer to a speech-language pathology assistant include: communication assistant, speech assistant, speech paraeducator, speech pathologist assistant, speech therapy assistant, speech-language assistant, speech-language pathologist assistant, speech-language pathologists assistant and speech-language technician.

³ O*Net Online. *Speech-Language Pathologist Assistants*. Retrieved October 25, 2023, from <https://www.onetonline.org/link/summary/31-9099.01>

⁴ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-1>

⁵ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-2>

⁶ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-2>

⁷ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-2>

An SLP may work with other practitioners, such as:⁸

- Audiologists,
- Occupational therapists,
- Physical therapists,
- Physicians,
- Psychologists,
- Respiratory therapists,
- Social workers, and
- Surgeons.

An SLP who works in a school provides services to students alongside teachers and other members of the staff.⁹

Generally, an SLP must obtain a master's degree in order to practice.¹⁰ While other qualifications required to practice differ depending on the state, all states regulate SLPs. States also require SLPs to complete clinical experience and pass an examination.¹¹

Typically, an Assistant supports an SLP by performing the following duties:¹²

- Carrying out a treatment plan or protocol under the direction of an SLP,
- Recording a client's progress in treatment established by an SLP,
- Gathering data on a client's performance, and
- Monitoring the use of devices and systems used as alternative forms of communication.

An Assistant may also be required to fulfill administrative duties, such as:¹³

- Organizing materials,
- Maintaining records,
- Managing supplies, and
- Coordinating schedules.

⁸ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-2>

⁹ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-2>

¹⁰ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-1>

¹¹ U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook: Speech-Language Pathologists*. Retrieved October 23, 2023, from <https://www.bls.gov/ooh/healthcare/speech-language-pathologists.htm#tab-1>

¹² O*Net Online. Speech-Language Pathologist Assistants. Retrieved October 25, 2023, from <https://www.onetonline.org/link/summary/31-9099.01>

¹³ O*Net Online. Speech-Language Pathologist Assistants. Retrieved October 25, 2023, from <https://www.onetonline.org/link/summary/31-9099.01>

While an Assistant provides direct services to clients, an Assistant must work under the direction and supervision of an SLP and an SLP is responsible for the services provided by an Assistant.

The sunrise application states that an SLP is responsible for creating a supervisory plan that protects clients and maintains the highest quality of practice, and the supervisory plan may require either direct or indirect supervision, or both. An SLP is also responsible for documenting supervisory activities.

Additionally, the sunrise application states that an SLP must determine the treatment objectives, develop treatment plans, interpret screenings, verify an Assistant's competence to conduct certain tasks, select clients for speech-language pathology services, review documentation regarding client progress reported by an Assistant and interpret client information provided by an Assistant.

The qualifications to practice as an Assistant vary by state. States typically require Assistants to obtain an associate or bachelor's degree in speech-language pathology or a related field. Clinical experience is also often required. Few states require private, professional certification.

Metropolitan State University of Denver, the University of Colorado at Boulder and the University of Northern Colorado offer bachelor's degrees in speech, language and hearing sciences. These schools also offer certificate programs for graduates to obtain the qualifications necessary to work as Assistants in the public school system.¹⁴

An Assistant may obtain private, professional certification through the American Speech-Language Hearing Association (ASHA) if they meet certain requirements. ASHA offers the following three pathways to meet the educational requirements for certification.¹⁵

1. Obtain an associate degree or complete a two-year technical training program in speech-language pathology from an accredited program.
2. Obtain a bachelor's degree in communication sciences and disorders from an accredited program and complete online educational modules through ASHA or an equivalent academic program.
3. Obtain any associate or bachelor's degree from an accredited program, complete online educational modules through ASHA or an equivalent academic program and complete an Assistant certificate program or specific academic courses, including:

¹⁴ American Speech-Language-Hearing Association. *Training Programs for Speech-Language Pathology Assistants*. Retrieved October 30, 2023, from www.asha.org/assistants-certification-program/slpa-technical-training-programs/

¹⁵ American Speech-Language-Hearing Association. *Education Pathways to Speech-Language Pathology Assistants Certification*. Retrieved October 27, 2023, from <https://www.asha.org/certification/education-pathways-to-speech-language-pathology-assistants-certification/>

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- Communication disorders,
 - Phonetics,
 - Speech sound disorders,
 - Language development,
 - Language disorders, and
 - Anatomy and physiology of speech and hearing mechanisms.

No more than two years before applying for ASHA certification, candidates must also complete three one-hour courses in the following subjects:¹⁶

- Ethics,
- Universal safety precautions, and
- Patient confidentiality.

In addition to the above coursework, candidates for ASHA certification must obtain 100 hours of clinical training, including at least 80 hours of SLP-supervised direct patient care and 20 hours of SLP-supervised indirect patient care.¹⁷

Finally, ASHA requires Assistants to pass a national examination.¹⁸

The ASHA Assistants Certification Examination (ASHA Examination) tests knowledge of the following subjects:¹⁹

- Scope of practice,
- Supervision requirements, and
- Basic job duties.

To maintain ASHA certification, an Assistant must demonstrate competence every three years by completing an assessment, paying annual certification fees and complying with ASHA's code of conduct.²⁰

Colorado currently has 444 Assistants who are approved by CDE to work in public schools. Also, 34 Assistants in Colorado have obtained ASHA certification.

¹⁶ American Speech-Language-Hearing Association. *Education Pathways to Speech-Language Pathology Assistants Certification*. Retrieved October 27, 2023, from <https://www.asha.org/certification/education-pathways-to-speech-language-pathology-assistants-certification/>

¹⁷ American Speech-Language-Hearing Association. *Education Pathways to Speech-Language Pathology Assistants Certification*. Retrieved October 27, 2023, from <https://www.asha.org/certification/education-pathways-to-speech-language-pathology-assistants-certification/>

¹⁸ American Speech-Language-Hearing Association. *Education Pathways to Speech-Language Pathology Assistants Certification*. Retrieved October 27, 2023, from <https://www.asha.org/certification/education-pathways-to-speech-language-pathology-assistants-certification/>

¹⁹ American Speech-Language-Hearing Association. *Assistants Certification Examination*. Retrieved on October 27, 2023, from <https://www.asha.org/certification/assistants-certification-exam/>

²⁰ American Speech-Language-Hearing Association. *2020 Standards for ASHA Speech-Language Pathology Assistants Certification*. Retrieved October 27, 2023, from <https://www.asha.org/certification/2020-slpa-certification-standards/>

Proposal for Regulation

The Colorado Speech-Language Hearing Association (Applicant) submitted a sunrise application to the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) in the Department of Regulatory Agencies for review consistent with section 24-34-104.1, Colorado Revised Statutes (C.R.S.). The application identifies certification of speech-language pathology assistants (Assistants) as the appropriate level of regulation.

While the American Speech-Language Hearing Association (ASHA) has established three pathways for certification, as outlined in the previous section of this report, the Applicant proposes that Colorado establish more restrictive qualifications for Assistants to be certified by the state than ASHA currently requires.

First, the Applicant proposes that the qualifications necessary to work as an Assistant include the following educational requirements:

- A bachelor's degree in speech communication, speech-language pathology, communication disorders or speech sciences, or
- A bachelor's degree in any other field and 24 credits in speech, language and hearing sciences, 18 of which must be speech and language classes (excluding audiology credits), from an accepted institution of higher education.

An Assistant would also be required to successfully complete at least 100 clock hours of clinical practice under the supervision of a state-certified and ASHA-certified speech-language pathologist (SLP).

In addition to the above requirements, which mirror the qualifications established by the Colorado Department of Education (CDE) for Assistants to work in the schools, the Applicant also proposes that Assistants be required to pass the ASHA Assistants Certification Examination.

Further, the Applicant proposes that Assistants have the same disqualifications based on criminal history as certified SLPs. These include pleading guilty or *nolo contendere* to or being convicted of a felony or a crime related to the practice of speech-language pathology.

Before providing services, the Applicant proposes that an Assistant must be provided orientation and on-the-job training concerning the responsibilities specific to the setting where the Assistant will be working. Additionally, the Applicant proposes that SLPs delegate tasks to Assistants.

Finally, the Applicant proposes that Assistants be required to complete 10 hours of continuing education each year and complete ASHA's ethics and diversity, equity and inclusion requirements every three years. As required by statute, the Applicant submitted a Mandatory Continuing Education Application to COPRRR.

According to the Applicant, regulation of Assistants would allow them to be used in settings outside of the public school system, which would help alleviate the shortage of speech therapy services in Colorado.

Regulation of Assistants is also being sought so that a potential employer in a non-school setting could check for any disciplinary action taken against a certified Assistant. A regulatory program would also establish a scope of practice, standards of supervision and the necessary qualifications for Assistants.

The Applicant is also seeking regulation in order to identify who is providing Assistant services outside of school settings in the state. Finally, regulation is being sought to provide the public with an opportunity to file a complaint against an Assistant and for the regulator to investigate the complaint and take disciplinary action if appropriate.

Summary of Current Regulation

Federal Laws and Regulations

At this time, no federal laws require speech-language pathology assistants (Assistants) to be licensed, certified or registered in order to practice.

The Colorado Regulatory Environment

In Colorado, an Assistant must obtain approval from the Colorado Department of Education (CDE) to work in the public school system. To obtain approval, an Assistant must meet the following qualifications:²¹

1. Have a bachelor's degree in speech-language pathology, or
2. Have bachelor's degree in another discipline and complete an additional 24 credit hours of specific coursework from an accredited college or university.

Additionally, an Assistant must complete 100 hours of supervised clinical experience.²²

The Speech-Language Pathology Practice Act (Practice Act) governs the practice of speech-language pathology in Colorado. Currently, the Practice Act defines speech-language pathology as²³

the 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.

²¹ Colorado Department of Education. *Initial School Speech-Language Pathology Assistant (SLPA) Authorization*. Retrieved October 30, 2023, from <https://www.cde.state.co.us/cdeprof/checklist-initialspeechlanguage>

²² Colorado Department of Education. *Initial School Speech-Language Pathology Assistant (SLPA) Authorization*. Retrieved October 30, 2023, from <https://www.cde.state.co.us/cdeprof/checklist-initialspeechlanguage>

²³ § 12-305-104(4)(a), C.R.S.

The Practice Act prohibits anyone from practicing speech-language pathology or representing themselves as a speech-language pathologist in Colorado unless they obtain certification from the Director of the Division of Professions and Occupations in the Department of Regulatory Agencies (Director) or approval from CDE.²⁴

Assistants who are providing speech-language pathology services in the public school system are exempted from the Practice Act, so they are not required to be certified by the Director. However, they are required to obtain approval from CDE.²⁵

The Practice Act does not exempt or otherwise contemplate the provision of speech language-pathology services provided by Assistants outside of school settings.

Regulation in Other States

Approximately 28 states require an Assistant to be registered, certified or licensed in order to provide speech-language pathology services under the direction and supervision of a licensed SLP. In eight other states, an Assistant may work under the direction and supervision of a licensed SLP without the additional requirement to be licensed, certified or registered by the state. Several states do not regulate or otherwise authorize Assistants to provide speech-language pathology services outside of school settings, and some states clearly prohibit Assistants from providing speech-language pathology services outside of school settings.

All states that authorize Assistants to provide speech-language pathology services outside of school settings require services to be provided under the direction and supervision of a licensed SLP. This includes states that require Assistants to be registered, certified or licensed.

States often also stipulate that a supervising SLP assume responsibility for all services provided by an Assistant. States frequently delineate the services that an Assistant may provide and the services that only an SLP may provide. States sometimes require an SLP to verify the skills and knowledge of an Assistant and to provide on-the-job training.

Many states also limit the number of Assistants that an SLP may supervise to two or three.

States that regulate Assistants or otherwise authorize them to provide services under the direction and supervision of an SLP typically require an Assistant to:

- Have an associate degree or a bachelor's degree in speech-language pathology or a related field, and
- Complete 100 clock hours of clinical experience.

²⁴ § 12-305-106(1), C.R.S.

²⁵ §§ 12-305-104(2) and 12-305-110(1)(a), C.R.S.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR) contacted nine nearby states to gather information about the complaint and disciplinary activity in those jurisdictions. California and Idaho did not respond to requests for information. Regulators in South Dakota reported that complaint data are confidential, and those in Texas were unable to break down complaint and disciplinary data by license type.

Table 1 illustrates the licensing, complaint and disciplinary activity in calendar years 2021 and 2022 as reported by seven states.

Table 1
Licensing, Complaint & Disciplinary Activity
Calendar Years 2021 and 2022

State	Licenses	Complaints	Discipline
Arizona	1,792	3 total: 1 fraud, 1 fraudulent billing and 1 false advertising	3 total: 1 Technical Assistance, 1 Plan of Correction, 1 Notice of Intent to Revoke
Nebraska	26	None	None
Oklahoma	193	1 complaint for portraying self as a therapist	One citation in 2022
Oregon	356	6 total: 1 exceeded their scope of practice, 1 improperly held caseload, 1 improper supervision and 1 failing to report misconduct, 1 unlicensed practice, 1 insurance fraud	3 total: \$300 Civil Penalty, \$275 Civil penalty, \$200 Civil Penalty
South Dakota	98	Confidential	None
Texas	4,953	Agency unable to provide	Agency unable to provide
Wyoming	64	1 complaint in 2021 for failure to disclose information on application	None

COPRRR was able to obtain complaint data from five states and disciplinary data from six states. Over a two-year period, 11 complaints were filed against Assistants in five states. The complaints filed concerned unlicensed practice, exceeding the scope of practice, improperly held caseload, improper supervision, failing to report misconduct, false advertising, misrepresentation, fraudulent billing, insurance fraud and fraud. Three of six states reported taking disciplinary action against Assistants during the two-year period.

Analysis and Recommendations

Public Harm

Sunrise criterion I asks:

Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public.

The purpose of state regulation is to ensure that practitioners have the minimum qualifications necessary to protect the health, safety and welfare of the public. Before analyzing any actual cases of harm related to the practice of speech-language pathology assistants (Assistants), it is important to understand what constitutes harm in this field and the types of harm that may exist.

According to the Colorado Speech-Language Hearing Association (Applicant), the types of harm resulting from the practice of an Assistant include:

- **Breaches in Confidentiality, Informed Consent, Appropriate Boundaries and Professional Conduct**—Assistants must adhere to ethical guidelines and professional standards. It is essential to ensure that Assistants understand and follow these guidelines, including maintaining client confidentiality, maintaining appropriate boundaries and ensuring professional conduct.
- **Poor Patient Outcomes**—The quality of services provided by Assistants can vary depending on their training, experience and supervision. Inconsistencies in skill level and competence may impact the effectiveness and outcomes of therapy.
- **Substandard Care**—Assistants typically have less training and experience than licensed SLPs. This can result in limited knowledge and skills when it comes to treating complex communication disorders, potentially leading to inadequate or ineffective therapy.
- **Errors in Assessment, Treatment and Progress Monitoring**—Proper supervision of Assistants is crucial to ensure quality services and patient safety. Inadequate supervision can lead to errors in assessment, treatment and progress monitoring. Close supervision and ongoing communication between the SLP and the Assistant are essential to mitigate this risk.
- **Misdiagnosis or Delayed Diagnosis**—Due to their limited training, Assistants may be less proficient in identifying or recognizing certain communication disorders, status change or associated conditions.

The Applicant submitted additional items that it referred to as potential harm to the Colorado Office of Policy, Research and Regulatory Reform (COPRRR). These items are not referenced in the report because they do not demonstrate potential harm. For instance, COPRRR would not consider lack of professional growth or development to be potential harm since they do not relate directly to the practice of an Assistant or to harm caused to a client or patient. Additionally, several of the items could potentially cause harm, but they are not, in and of themselves, harm. For instance, limited training may cause harm, but it is not, in and of itself, harm.

Additionally, while the Applicant included “Errors in Assessment” and “Misdiagnosis or Delayed Diagnosis” among the types of harm that may be caused by an Assistant, it is important to note that Assistants are typically prohibited from assessing or diagnosing a client or patient. Moreover, inadequate supervision which the Applicant reported may lead to “Errors in Assessment, Treatment and Progress Monitoring” is the responsibility of the SLP, not the Assistant, and SLPs are already regulated and may be disciplined for substandard practice.

Since the sunrise criteria question whether the practice clearly harms or endangers the public, COPRRR requested that the Applicant submit cases in which the public had been harmed by an Assistant. COPRRR then reviewed the examples of harm provided by the Applicant and conducted an analysis.

Examples of Harm Provided by Applicant

Four anonymous anecdotal cases were submitted to COPRRR that related to concerns that Assistants had regarding their employers. However, none of these cases alleged harm to any students, clients or patients. The purpose of occupational or professional regulation by the state is to protect consumers from harm, not to protect the profession or its practitioners.

Two additional anonymous anecdotal cases that were submitted related to problems with billing Medicaid in school settings. However, the cases do not report that the Assistants did anything wrong.

In addition to these cases, two cases were submitted that related to Assistants who were practicing speech-language pathology outside of school settings. As the Speech-Language Pathology Practice Act (Practice Act) does not exempt Assistants who are working outside of school settings and the practice of an Assistant is considered the practice of speech-language pathology, the Director of the Division of Professions and Occupations (Director) in the Department of Regulatory Agencies determined that, in both cases, the Assistants were practicing speech-language pathology without certification and issued cease and desist orders.

In one of the above cases related to uncertified practice, the Assistant was misrepresenting herself as a “speech therapist.” While misrepresentation is harmful to

consumers, the Director already has authority under the Practice Act to take action in such cases and did so.

Other than misrepresentation, no other harm to clients was alleged in either case. Also, while the Assistants were not qualified under the Practice Act to provide speech therapy outside of the schools, the level of education and training of each of the Assistants is unknown, and it cannot be assumed that the services provided were substandard.

The Applicant also submitted correspondence from a parent, representatives of community centered boards and representatives of home health agencies that cited a shortage of speech-language pathology services in Colorado. While a lack of services may be harmful to consumers, no cases of harm related to the practice of any Assistants was submitted in any of the correspondence.

Additionally, COPRRR reached out to the Colorado Department of Education (CDE) for complaint and disciplinary data related to Assistants and to the Colorado Department of Public Health and Environment (CDPHE) for any cases of harm. According to CDE, in 2021 and 2022, no complaints or disciplinary actions were filed against Assistants working in the schools, and CDPHE did not report any cases of harm related to Assistants in home-care settings.

Finally, COPRRR reached out to nine other states and uncovered 11 complaints, three of which related to fraud. While fraud is harmful to the public, it is questionable whether three cases related to fraud committed in other states is sufficient evidence to warrant regulation of an entire occupational group in Colorado.

In summary, few cases of harm related to the practice of speech-language pathology by an Assistant were uncovered during the sunrise review.

Independent Judgement

Sunrise criterion I.5 asks:

Whether the practitioners of the profession or occupation exercise independent judgment, and whether the public can reasonably be expected to benefit from the direct regulation of the profession or occupation if a practitioner's judgment or practice is limited or subject to the judgment or supervision of others.

Assistants are not independent practitioners. In all states that authorize Assistants to provide services, an Assistant may only work under the supervision and direction of an SLP. Generally, the supervising SLP is held responsible for any services provided by the Assistant. As SLPs are already regulated and there is little evidence of harm related to practice by Assistants, it is unlikely that the public would benefit from the direct regulation of Assistants.

Need for Regulation

Sunrise criterion II asks:

Whether the public needs, and can be reasonably expected to benefit from, an assurance of initial and continuing professional or occupational competence.

The Applicant proposes that Assistants be required to complete 10 hours of continuing education each year. As required by statute, the Applicant submitted a Mandatory Continuing Education Application to COPRRR.

Little evidence of harm to consumers from the practice of Assistants was uncovered during the sunrise review. The purpose of state regulation is to ensure practitioners have the minimum standards necessary to protect the health, safety and welfare of the public. With little evidence of harm to consumers, an assurance of initial and continuing professional or occupational competence is unnecessary.

Alternatives to Regulation

Sunrise criterion III asks:

Whether the public can be adequately protected by other means in a more cost-effective manner.

The Applicant is seeking certification of Assistants, which is a restrictive form of regulation. Since there is little evidence of harm related to the practice of Assistants, an intrusive and costly regulatory program is unwarranted.

Employers do, however, have some ability to verify the professional competence of Assistants before hiring them. They can check an applicant's academic qualifications, including any clinical training. An employer can also rely on the expertise of an SLP to provide on-the-job training to an Assistant and to check the skills and knowledge of an Assistant. Employers can also check the references of an applicant and conduct a criminal background check.

Additionally, the Consumer Protection Act (CPA) makes it unlawful for anyone to claim to have a degree or use a title associated with a particular degree unless the person has been awarded a degree from a school that is accredited or otherwise authorized to grant degrees as specified in statute.²⁶

In addition to the protection offered under the CPA, private, professional certification is also available through the American Speech-Language Hearing Association (ASHA),

²⁶ § 6-1-707(1)(a), C.R.S.

and only those individuals who have ASHA certification are able to represent themselves as ASHA-certified Assistants or place “C-SLPA” after their name.

Typically, private certification represents a high level of professional competence, beyond what is necessary for public protection. Unlike private certification, the purpose of state regulation is to ensure practitioners have the minimum standards necessary to protect the health, safety and welfare of the public.

Private certification provides a market advantage to those who have it. Anyone who does not have private certification must compete with those who do, and when it is important to employers, professionals without it are at a competitive disadvantage.

An associate or bachelor’s degree in speech-language pathology, or a related degree, and private certification are credentials that offer employers some assurance of professional competence. As private certification is available, an employer has a choice to hire an Assistant with ASHA certification or an Assistant without ASHA certification.

Additionally, Assistants are not independent practitioners; they work under the supervision and direction of an SLP. If an Assistant is not competent to provide speech therapy, the supervising SLP should be able to identify this and take steps to address any concerns.

While little evidence of harm from the practice of Assistants was provided during the sunrise review, if Assistants are authorized to practice outside of school settings, there are some alternatives in place to provide employers with an assurance of professional competence.

Collateral Consequences

Sunrise criterion IV asks:

Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

The Applicant proposes that the disqualifications established under the Practice Act for SLPs also apply to Assistants. These include pleading guilty or *nolo contendere* to or being convicted of a felony or a crime related to the practice of speech-language pathology.

COPRRR requested the complaint activity over a two-year period in nine other states and found three complaints related to fraud. While fraud is harmful to the public, it is questionable whether three cases from other states support the need for regulation of an entire occupational group in Colorado, especially since almost no other evidence of harm related to practice by Assistants was uncovered.

The purpose of state regulation is to ensure practitioners are held to the minimum standards necessary to protect the health, safety and welfare of the public. Since little evidence of harm was demonstrated during the sunrise review, any disqualifications based on criminal history would be unnecessarily intrusive and overly restrictive.

Conclusion

The central question of this sunrise review is whether the unregulated practice of Assistants is harmful to the public. After analyzing the evidence of harm provided by the Applicant, COPRRR uncovered little evidence of harm related to practice by an Assistant. Considering this, requiring Assistants to be certified by the state as proposed by the Applicant would be excessively burdensome.

However, under the Practice Act, state certification is required to practice speech-language pathology, and the tasks performed by an Assistant overlap with the scope of practice of an SLP. Since the Practice Act does not exempt Assistants outside of school settings or otherwise authorize them to provide services, it appears that Assistants in Colorado may not provide services outside of school settings. If they do, the Director could take action against them for uncertified practice.

According to the Applicant and other stakeholders, Colorado has a shortage of SLPs. Since Assistants function as an extension of SLPs, allowing them to provide services could help to increase the provision of speech therapy in Colorado and alleviate any shortages. As several other states demonstrate, it is not necessary to require Assistants to be licensed, certified or registered by the state in order to authorize them to provide services.

Instead, the Practice Act could be amended to authorize Assistants to practice outside of school settings. Since Assistants would be providing limited speech-language pathology services which cannot be provided independently, it would be reasonable to require an Assistant to work under the direction and supervision of a state-certified SLP.

Some states do prohibit Assistants from providing services outside of school settings. However, if the General Assembly determines that Assistants should be allowed to provide services outside of school settings, it could amend the Practice Act. Otherwise, Assistants will continue to be limited to working in the schools, which is effectively a prohibition on them providing speech-language pathology services in any other setting.

It should be noted that there is considerable confusion among stakeholders about whether Assistants may work outside of school settings in Colorado. While the Practice Act does not seem to allow it, it does not explicitly prohibit it. Additionally, the Department of Health Care Policy and Financing authorizes reimbursement for speech therapy provided by Assistants outside of school settings if they are working under direct supervision of an SLP. Considering this, the General Assembly could clarify this ambiguity.

In conclusion, the purpose of state regulation is to ensure practitioners have the minimum qualifications necessary to protect the health, safety and welfare of the public. With little evidence of harm, there is no justification under the sunrise criteria for the state to create a new regulatory program for Assistants.

Recommendation – Do not regulate speech-language pathology assistants.