

**SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY &
HEARING AID DISPENSERS BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

FINAL STATEMENT OF REASONS

Hearing Date: The Board did not hold a public hearing on the proposed regulations

Subject Matter of Proposed Regulations: Hearing Aid Dispenser Continuing Education

Sections Affected: Amend Sections 1399.140 – 1399.144 and Adopt Section 1399.140.1 in Article 7 of Division 13.3 of Title 16

Updated Information:

The Initial Statement of Reasons is included in the file (Attachment 1).

The regulatory proposal was noticed without a public hearing date scheduled and no interested parties requested a public hearing be held.

The information contained therein is updated as follows:

Section 1399.140: The date the new continuing education (CE) requirement takes effect has been changed from January 31, 2015 to July 1, 2017. This change was made in response to public comment and to accommodate a period of compliance. The amount of self-study CE is being increased from three (3) to six (6) hours per each annual renewal period. This change was made as the Board made the determination to increase the amount of allowable self-study CE to fifty (50) percent of the total amount of CE required and changed the wording from preceding one-year to annual for clarity. Subsection (a)(2) was split into two subsections (A) and (B) and text referring to courses not subject to the three (3) hour limit above was removed for clarity and ease of understanding the language. The word conducted was removed from the text as it is redundant.

Section 1399.141: The name of the application has been corrected and the revision date has been updated to reflect current information. Code subsection (a)(1) and section 2538.11 have been updated to reflect the correct section of law.

In the Initial Statement of Reasons, the document referred to as May 19-20, 2011 Audiology Practice Committee Meeting Minutes in the Underlying Data section was inadvertently included with other documents that were relied upon for this action. This document was not a document relied upon and is therefore not included in the rulemaking file.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts or evidence/documents/ testimony.

1. Board-approved providers must submit course materials to the Board for approval. Business and Professions Code Section 2538.57(h) authorizes the Board to collect a fifty dollar (\$50) fee for each submitted course. All approved hearing aid dispensing continuing education providers currently pay the annual established course approval application fee.

The anticipated benefits of this regulatory proposal are:

1. The amendments enhance public protection by broadening the CE requirements for hearing aid dispensers by allowing courses offering related health care information that cover areas pertinent to those with hearing loss. The amendments also remove the ability for licensees to postpone obtaining their CE which hinders their professional growth.
2. The proposed regulations provide greater clarity and direction regarding the CE requirements for licensed hearing aid dispensers. The proposed language encourages a focused CE plan for licensees to complete the twelve (12) hours of CE required annually.
3. The proposed amendments provide greater clarity and direction for CE providers and includes accountability for the Board to review and process CE provider applications in a timely fashion. The proposed regulations offer an appeals process whereby CE providers may submit further qualifying information to be considered by the Executive Officer for approval of a CE course. The proposed amendments offer openness and transparency in government.
4. The proposed amendment provides non-substantive changes, but also provides the Board with options for seeking recourse should a licensee falsify or misrepresent compliance with CE requirements. Licensees would be motivated to comply with the CE requirements or possibly place their license on inactive status if they fail to complete the requisite CE hours. The amendment protects the public health and safety by enforcing license renewal requirements that promote knowledge and professional competency.
5. The proposed amendment provides licensees the opportunity to refresh their knowledge in subject areas that are complex, such as, hearing aid technology, and still receive CE credit. The amendment protects the public health and safety by

encouraging licensees to revisit courses that have a direct impact on hearing health care services to the public.

6. The proposed amendment limiting the amount of self-study CE encourages licensees to attend “live” online or in-person CE courses where they have the ability to meet others in their field and network.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses

The following recommendation and/or objections were made regarding the proposed action:

Joanne Slater from Audiology Online provided a comment in writing that addresses 1) the revisions suggested for Section 1399.140(a)(2); 2) the revisions suggested for section 1399.141; and 3) certain assumptions and statements outlined in the “Policy Statement Overview/Anticipated Benefits of Proposal” found on the Board’s website.

Ms. Slater requests that the Board not limit the amount of self-study continuing education coursework. She supports her request by stating that the International Association of Continuing Education and Training, has developed the ANSI standards which require that multiple learning styles be accommodated. Ms. Slater also states that the proposed change will be a bigger financial burden upon licensees who are required to attend live courses. She states, “Self-study continuing education enables participants to learn from nationally and internationally recognized experts, in formats that meet the learner’s individual learning style, on topics where there is a learning gap, and on a schedule that has the least financial impact on the learner. If the intent of CE is to help licensees “broaden their knowledge and awareness of hearing health,” restricting acceptable learning options is counterproductive.”

This portion of the comment is accepted in part as the allowable self-study hours were increased during the second 15-day comment period, 6/1/16 – 6/16/16.

The proposed language was drafted by the Hearing Aid Dispensers Bureau prior to its being merged with the Speech-Language Pathology and Audiology Board. Between the years 2010 and 2013, when the issue was discussed by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board), the issues discussed focused

on increasing the required amount of continuing education hours, limiting the amount of self-study hours, and restricting the approval of courses that focused on the marketing of hearing aid products by hearing aid manufacturers to bring parity between the former bureau requirements and the existing speech-language pathology and audiology requirements.

Participants pay a fee for the continuing educational courses they attend regardless of the method of instruction, “live” or self-study. “Live” courses are being equated to seminar style courses where traveling, taking time off of work and limited funds could prohibit licensees from attending. “Live” courses however; include interactive courses, online or seminar/lab, which allow for real-time participatory interaction between the licensee, instructor, and other course participants during the instructional period. Self-study is correspondence-type coursework where there is no interaction or limited interaction, not during class time, between the instructor and participants. As noted in the comment, the IACET requires that “Instructional methods accommodate multiple learning styles.” Requiring a portion of the continuing education to be interactive allows licensee to gain knowledge and information that they may not otherwise attain, by interacting with others in their field.

CE is an annual requirement and licensees are able to plan their schedule in advance to minimize the effect it has on work, school, and personal time.

Ms. Slater requests that the Board approve CE providers rather than individual courses and allowing the course to be offered for one year rather than for the calendar year in which it is approved. The comment mentions ways to improve the approval of course guidelines. In addition, the comment addresses confusion about hearing aid dispenser CE requirements by audiologists (AuD) and non-audiologist dispensers.

The comment is rejected.

Statute states the Board approves each CE course not the CE provider. As such, the legislature will need to enact the change in language of the statute. The expiration date for hearing aid dispensing CE courses has not changed. December 31st of each calendar year has been the date CE courses expire since the Hearing Aid Dispenser Bureau merged with the Speech-Language Pathology and Audiology Board on January 1, 2010. The decision to have CE courses renew on January 1 of each year was made to in order for Board staff to easily keep track of the CE courses being offered during the year. The renewal period of January 1 is the same for all CE course renewals.

Audiologists (AuD) who are not dispensing audiologists (DAU) are not affected by this regulation.

This comment addresses the number of CE courses available through Audiology Online, the amount of CE courses taken by California licensees through Audiology

Online, the number manufacturers that offer approved CE, and the increase in self-study hours for Speech-Language Pathologists (SLP) and AuD's.

The comment is accepted with regard to the amount of Board approved CE courses. The amount of Board approved CE courses offered has been increased to seven hundred-fifty (750).

The portion of the comment that suggests limiting the number of self-study hours will promote more manufacturer-sponsored courses, which do not promote the spirit of the CEs, is rejected. The proposed change prohibits courses that focus on the marketing and sales of hearing aids that promote a particular brand of hearing aids and do not benefit the consumer by broadening the knowledge and awareness of hearing health.

Online courses through Audiology Online whether "live" or self-study should fall under the unlimited continuing education cost paid by the licensee. Limiting the amount of self-study hours should not significantly affect the course options from this provider because online courses can be interactive.

This comment addresses a CE survey of Speech-Language Pathologists that advocated increasing the number of CE self-study hours allowed and referenced ASHA correspondence that noted an increase in the amount of self-study hours being developed and taken by licensees and registrants.

This portion of the comment is rejected. The proposed text limiting the amount of self-study a hearing aid dispenser (HAD) or DAU can obtain each renewal cycle was approved by the Board at the Board Meeting in January 2013; prior to the Board addressing the subject of self-study for SLP's and AuD's. HAD's, SLP's and AuD's are three separate and distinct professions whose CE requirements are different.

Ms. Slater recommends that the Board consider alternatives to this regulation and suggests additional information be considered including evidence from the American Speech-Language-Hearing Association (ASHA) and the SLP survey.

This portion of the comment is accepted as informational only.

The ASHA correspondence provides information about the requirements that must be met to have self-study material approved by their association. The correspondence includes a chart that lists the amount of CE courses offered for each learning style and the participation amount for each. The survey of the SLP's is unavailable.

Deanna McCoy, President of Hearing Healthcare Providers of California provided a comment pertaining to 1399.140 (a).

Ms. McCoy requested that an extension be added to the regulation in order to, “accommodate the nature of adopting the regulations and outreach to licensees to notify them of the change”.

This comment is accepted and the text of 1399.140 (a) be changed as follows:

(a) Any hearing aid license that expires on or after ~~January 31, 2015~~ January 1, 2017. ~~Each dispenser~~ is required to complete at least ~~six (6)~~ twelve (12) hours of continuing education from a provider approved under Section 1399.141 ~~below~~ during each ~~calendar year preceding one-year renewal period.~~ For all licenses which expire on and after January 1, 1997, all holders of licenses shall complete nine (9) hours of continuing education per year, and not . . .

No comments were received during the comment periods held on 9/21/15 to 10/5/15, 6/1/16 to 6/16/16, 8/10/16 to 8/25/16, 8/25/16 to 9/9/16, and 9/29/16 to 10/14/16.

Incorporation by Reference:

The incorporation by reference method was used because it would be impractical to publish the Continuing Education Course Approval Application for Hearing Aid Dispensers & Dispensing Audiologists (CEP 100/Rev 05/16) in the California Code of Regulations (CCR). The application is updated on a regular basis and including it in the CCR would cause confusion when outdated forms are in the California Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. The Application is available to the public by request during the rulemaking period and is posted on the Board’s website under the heading Applicant/Registrant; Continuing Education Course Provider; Hearing Aid Course Approval; Application.