

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

INITIAL STATEMENT OF REASONS

Hearing Date: No public hearing has been scheduled.

Subject Matter of Proposed Regulations: Hearing Aid Dispenser Continuing Education

Sections Affected: 1399.127 Title 16, Chapter 13.3, Article 5 of the California Code of Regulations

Introduction

On January 1, 2010, pursuant to AB 1535, (Jones, Chapter 309, Statutes of 2009) the Hearing Aid Dispensers Bureau, established in 1972, and the Speech-Language Pathology and Audiology Board, established in 1974, merged to form one regulatory body, the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (Board). Both the former entities set licensing standards and enforced the laws governing the practices of the specified professions, speech-language pathology and audiology, and hearing aid dispensers, respectively. The priority of both entities as well as the newly formed Speech-Language Pathology, Audiology & Hearing Aid Dispensers Board (Board) is the protection of the public.

The requirement for licensed hearing aid dispensers to complete a specified number of continuing education (CE) hours has been in effect since the early to mid-1980s. The former Hearing Aid Dispenser's Bureau had considered changes to its CE requirements, including increasing the number of hours required for license renewal sometime before the merger of the Bureau into the Board; however, such changes were never put forth in a formal regulatory proposal. Once the new Board was formed, the Board considered the draft amendments and expanded on improving the integrity and accessibility of approved CE for hearing aid dispensers. The amendments are intended to provide a broader scope of applicable CE while limiting courses that focus on financial incentives and profitability, such as marketing and sales of hearing aid products.

Specific Purpose of Each Adoption & Amendment:

1. Amend Section 1399.140

The proposed amendment increases the CE requirements for licensed hearing aid dispensers from nine (9) hours to twelve (12) hours for licensees whose license expires on or after January 31, 2015. The amendment establishes a maximum number of CE hours that may be obtained in related or indirect client care courses, and provides a specified number of CE hours that may be obtained in self-study. The proposed amendment sets forth requirements for CE record retention for licensees, and verification of compliance

with the CE requirements. The proposed amendments delete the grace period of one year for obtaining the requisite CE.

Problem being addressed:

Nine (9) hours of CE required upon the annual renewal of the hearing aid license was minimal in comparison with other health arts professionals and those in the hearing healthcare professions. Also, current regulations do not provide for any CE hours in related course work that may cover genetic abnormalities, diseases, or incidents of trauma that can lead to hearing loss or deafness. Current regulations include related hours in ethics and business practices. Existing regulations do not provide clear direction on CE record retention for licensees, and current language does not properly describe how verification of compliance is documented. Removing the grace period is consistent with the goals and expectations of CE licensing requirements. Enabling licensees to postpone their required CE is a detriment to the public good, as the intent of CE is to require on-going exposure to new information and professional growth.

Anticipated benefits from this regulatory action:

These amendments would enhance public protection by broadening the CE requirements for hearing aid dispensers to allow for coursework offering related health care information covering areas pertinent to those with hearing loss. It also removes the opportunity for licensees to postpone their professional growth. The public should in turn receive services from a more informed licensed provider.

Factual Basis/Rationale:

The intent of CE is to encourage on-going professional development so that licensees remain current, informed, and skilled in their scope of practice. The proposed changes encourage licensees to broaden their knowledge and awareness of hearing health, while balancing such requirements with accessible CE options in self-study. Current regulations do not address self-study. It was a policy of the former Bureau to restrict all self-study offerings. A few years prior to the merger, there was a policy shift and self-study was accepted, although, most licensees were not aware of the change.

2. Adopt Section 1399.140.1

The proposed language defines CE courses categorized as direct client care courses, indirect client care courses, and related courses, as well as provides examples of courses considered outside the scope of acceptable course content.

Problem being addressed:

Existing regulations do not define “related” courses although references to areas related to hearing aid dispensing are described as courses covering *ethics*. The proposed language provides clear definitions for the licensee so that the licensee may choose courses in a broader content area, but not applying coursework in business and financial topics which are not directly beneficial to the consumer.

Anticipated benefits from this regulatory action:

The proposed regulations would provide greater clarity and direction regarding the CE requirements for licensed hearing aid dispensers. Also, the proposed language encourages a more focused CE plan for licensees to complete the twelve (12) hours of CE required annually.

Factual Basis/Rationale

Most CE programs provide for some *related* coursework opportunities as many health care issues overlap or exist as a “cause and effect” condition. As such, it is vitally important that licensees providing health care services have a general understanding of related pathologies, genetic abnormalities, etc. Also, as licensed health care providers, licensees must comply with legal and ethical mandates such as patient record confidentiality, reporting suspected abuse, etc. The proposed language provides the opportunity for licensees to obtain CE in such areas, but does not compromise the intent of CE as being consumer focused.

2. Amend Section 1399.141

The proposed amendments specify the CE provider application requirements, including course content, instructor qualifications, and timeframe for Board review and approval.

Problem being addressed:

Existing regulations were unclear in terms of their references to practice relevant CE courses. The regulations do not clearly specify that the CE coursework should be aimed at educating the licensee to improve their services to the consumer and not for the personal or financial gain of the licensee. Existing regulations are vague in terms of instructor qualifications and did not provide for specified processing timeframes for provider application review and approval/denial, nor do the regulations address provider appeals. The proposed language provides clear direction to CE providers in terms of the requirements for approval.

Anticipated benefits from this regulatory action:

The proposed amendments would 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 so that CE providers may submit further qualifying information to be considered by the executive officer. The proposed amendments offer openness and transparency in government.

Factual Basis/Rationale:

Reviewing and approving providers ensures a certain level of quality control with CE course offerings. It's important for the Board to qualify CE provider requirements and expectations as the CE providers will be responsible for educating licensed hearing aid

dispensers. It is equally important that the Board be responsive and equitable in its processing of the provider applications by establishing reasonable processing timeframes and an appeals process should a CE provider application be denied.

3. Amend Section 1399.142

The changes proposed in Section 1399.142 update the references to Business and Professions Code section numbers that changed pursuant to Senate Bill 933 (Stats 2011). The changes clarify that the Board may imposed sanctions for falsifying compliance with CE requirements.

Problem being addressed:

The proposed changes are primarily non-substantive and update the numbering of relevant Code Sections. The additional amendment specifies that the Board may impose sanctions, such as, cite and fine, for fraudulently misrepresenting compliance with CE requirements, but could also take more serious punitive action against the license.

Anticipated benefits from this regulatory action:

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 more motivated to comply with the CE requirements or possibly place their license on inactive status if they failed 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.

Factual Basis/Rationale:

Licensees should be aware of the consequences if they fail to uphold the laws and regulations designed for consumer protection. Falsifying documents or misrepresenting compliance before the Board may be a gateway into a more serious character problem. The Board should have an opportunity to examine such issues of fraud and take appropriate action depending upon the aggravating facts.

4. Amend Section 1399.143

In addition to making non-substantive changes to section numbering as described above, the proposed amendments would reduce the timeframe that licensees may apply repetitive or similar coursework toward a subsequent license renewal from three (3) years to two (2) years.

Problem being addressed:

The proposed change enables licensees to apply coursework that is substantially similar to coursework the licensee may have taken two (2) years prior. With hearing aid technology ever changing, many courses are similar in nature but offer slightly new information in technological uses.

Anticipated benefits from this regulatory action:

The proposed amendment provides licensees an 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.

Factual Basis/Rationale:

It may be important for hearing aid dispensers to revisit courses on hearing aid technology as it can be complex and is continually evolving. A refresher course on hearing aid technology or technological advances is reasonable and necessary in providers keeping abreast of the latest hearing devices.

5. Amend Section 1399.144

Only non-substantive changes are being proposed which changes the reference from “bureau” to “board” to reflect the current governance status.

Underlying Data:

- March 24, 2010 Hearing Aid Dispensers Practice Committee Meeting Minutes
- May 26, 2010 Hearing Aid Dispensers Practice Committee Meeting Minutes
- July 26, 2010 Hearing Aid Dispensers Practice Committee Meeting Minutes
- January 26, 2011 Hearing Aid Dispensers Practice Committee Meeting Minutes; and, January 27, 2011 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting Minutes
- May 19, 2011 Hearing Aid Dispensers Practice Committee Meeting Minutes; and, May 20, 2011 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting Minutes
- May 19-20, 2011 Draft Audiology Practice Committee Meeting Minutes
- July 26-27, 2012 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting Minutes
- January 10-11, 2013 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting Minutes
- June 12, 2013 Hearing Aid Dispensers Committee Meeting Minutes; and, June 13, 2013 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting Minutes

- October 10, 2013 Hearing Aid Dispensers Committee Meeting Minutes; and, October 11, 2013, Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting Minutes

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.

There may be a minor cost to businesses to comply with this regulation as Board-approved providers must submit course materials to the Board for approval. Business and Professions Code Section 3456 (h) authorizes the Board to collect a fifty dollar (\$50) fee for each submitted course. However, all current approved hearing aid dispensing continuing education providers currently pay the established course approval application fee and would likely be the target providers of CPD courses.

There are approximately twenty-five (25) approved hearing aid dispenser continuing education providers approved by the Board and approximately five-hundred fifty (550) approved courses.

CE Provider assumptions:

- 50 CE providers in California
- 510-550 approved courses
- \$50 fee for each submitted course.
- \$200 Renewal fee required of CE Providers that offer both hearing aid dispenser courses and audiology courses

Under this proposal, it is assumed that existing providers would offer the same courses for hearing aid dispensers. As such, the fees are already in existence for these providers and no significant fiscal implications are anticipated.

Economic Impact:

This regulatory proposal will have the following effects:

It will not create or eliminate jobs within the State of California because it is merely changing the current CE requirements for licensed hearing aid dispensers which would not affect employment or alter existing jobs in the state.

It will not create new business or eliminate existing businesses within the State of California because the regulation does not place new requirements on businesses as it affects individual licensed hearing aid dispensers.

It may affect the expansion of businesses currently doing business within the State of California because it increases the number of required CE hours a licensed hearing aid dispenser must obtain per year.

This regulatory proposal benefits the health and welfare of California residents because the changes provide for a focused CE program where the courses must be consumer/client centered and not marketing and sales driven, thereby encouraging licensees to continue their knowledge of hearing health care issues.

The regulatory will have no effect on worker safety or the State's environment.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

- Not adopt the regulations. This alternative was rejected because the Board has identified areas within the CE regulations which do not adequately serve the interests of professional growth for licensees with the intended benefit of improved hearing health care for California consumers.
- The most reasonable solution in meeting the Board consumer protection mandate is to adopt the proposed changes.