

# TITLE 16 - DEPARTMENT OF CONSUMER AFFAIRS SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (Board) is proposing to take the action described in the Informative Digest. No public hearing has been scheduled on the proposed action. However, any interested person or such person's duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8. Written comments, including those sent by mail or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5 p.m. on January 19, 2015. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Business and Professions Code Sections 2531.95, to implement, interpret or make specific Section 2538.18, of the Business and Professions Code, the Board is considering changes to Division 13.3 of Title 16 of the California Code of Regulations as follows:

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board ("Board") is authorized by Business and Professions Code Section 2531.95 to adopt regulations necessary to implement the Speech-Language Pathology and Audiology Licensure Act. Section 2538.18 sets forth provisions for licensed hearing aid dispensers to complete continuing education (CE) as a condition of license renewal. The Section further requires the Board to monitor CE to ensure compliance with the CE regulations as established by the Board.

In addition to non-substantive changes reflecting the agency's change in governance status from a bureau to a board, and updating references to statutory renumbering, the following substantive changes are being proposed:

Section 1399.140 (a): Makes changes to any license that expires on or after January 31, 2015, increasing the continuing professional development requirement from nine (9) hours to twelve (12) hours and specifies that the hours must be completed within the preceding one-year renewal period. The proposal sets forth limitations on the amount of time acquired in self-study courses, and authorizes a limited number of hours in courses covering topics in related and indirect client activities.

Section 1399.140(b)-(d): The proposed amendment specifies the manner in which compliance with the CE provisions must be verified and establishes CE record retention timeframes.

Section 1399.140 (e): Amends the language providing exclusions to the CE requirement upon renewal of an initial license.

Section 1399.140.1(a): Adds provisions to define the type of course content that may be applied as CE for the purpose of license renewal. The provision defines direct client care courses, indirect client care courses, and related course areas.

Section 1399.140.1(b): Adds a provision outlining the topics that are considered outside the acceptable course content areas for CE.

Section 1399.141(a): Amends the criteria for course approval and provides that all courses must be within the scope of practice of a licensed hearing aid dispenser and must be for the benefit of the consumer. The provision also outlines specific qualifications that the instructor of the course must possess.

Section 1399.141(b): Amends the section to require maintenance of attendance records for a period of four (4) years, and requires the licensee to produce such records upon the request of the Board.

Section 1399.141(c): Amends the timeframe within which the Board must review a provider application and notify the provider whether the application is complete. The changes provide for thirty (30) days wherein the Board must notify the provider of the application status and affords the provider thirty (30) days to cure any noted deficiency outlined by the Board. The changes also establish a thirty (30)-day timeframe which the Board must approve or deny a provider application. The amendment establishes an appeal process should a provider application be denied.

Section 1399.142: Clarifies that misrepresenting compliance with the CE requirements is deemed fraud and appropriate sanctions may be imposed.

Section 1399.143: Amends the section to reduce the timeframe which licensees may apply CE coursework that is duplicative or similar to coursework which was completed within the previous two (2) years.

Section 1399.144: Amends the section for non-substantive changes to outdated Business and Professions Code sections.

## **POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL**

CE is intended to encourage licensees to participate in on-going professional development in order to remain current and competent in the delivery of the licensed health care service. CE for the purpose of licensure should be focused on consumer/client services and be designed to educate and inform licensees about new technologies, research or clinical services.

The proposed changes serve to amend the existing CE requirements for hearing aid dispensers to require coursework in areas that are consumer/client centered so that the hours applied to license renewal requirements will be that which has a direct benefit to the consumer. The changes provide for a focused CE program where such requirements contribute to the health, safety, and welfare of the public and are consistent with licensure standards for health care providers.

## **CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS:**

After conducting a review for any regulations that would relate to or affect this area, the Board evaluated this regulatory proposal and it is not inconsistent or incompatible with existing state regulations.

## **FISCAL IMPACT ESTIMATES**

### **Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State:**

This proposed regulation would amend existing CE requirements for licensed hearing aid dispensers. It is not anticipated that the proposed changes will have a fiscal impact on any public, state, or federal agencies as the changes do not require additional program resources or new processes.

The Board currently reviews and approves or denies CE providers and courses depending upon the course content and instructor qualifications. Board staff will not incur additional program responsibilities or realize an increase in course submissions as a result of the proposed changes. While there is a slight increase in the number of hours a hearing aid dispenser must obtain for license renewal annually, CE providers typically offer multiple courses a year beyond the minimum required for license renewal.

**Nondiscretionary Costs/Savings to Local Agencies:** None

**Local Mandate:** None

**Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Requires Reimbursement:** None

**Business Impact:** The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## **AND**

The following relevant data were relied upon in making the above determination:

CE providers are mostly small businesses who pay a provider and course approval application fee. Business and Professions Code Section 2538.57 (h) authorizes the Board to collect a fifty dollar (\$50) fee for each course submitted. CE providers currently pay the established course approval application fee. The proposed changes do not impose additional fees for providers.

The regulatory proposal does restrict courses on the marketing and sales of hearing aids. In the past, hearing aid manufacturers would routinely offer such courses to licensed dispensers. However, since the Board has made the policy decision to no longer grant credit for courses on the marketing and sale of hearing aids, and has communicated the proposed regulatory amendment to its provider population, most CE providers no longer advertise these courses as being offered for license renewal credit. There may be a minor

impact to the small number of businesses who continue to seek such approval, as the \$50 fee is nonrefundable. In addition, the provider may lose some revenue from licensees who choose not to participate in courses surrounding the marketing and sale of hearing aid products since such courses are no longer approved for CE. Alternately, the providers may realize an increase in revenue since the CE license renewal requirements, as proposed, would slightly increase from nine (9) hours every year to twelve (12) hours annually.

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

CE Provider assumptions:

- 25 CE providers in California
- 510 - 550 approved courses
- \$50 fee for each submitted course.
- Approximately 5-7 courses are submitted to the Board per year regarding the marketing and sale of hearing aids. These courses would be denied and the course fee is non-refundable
- No application fee or renewal fee required.

**AND**

The following studies/relevant data were relied upon in making the above determination: The existing CE provider/course approval list and a record of denied courses.

**Cost Impact on Representative Private Persons or Business:** The following provides detail regarding any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

- Licensed hearing aid dispensers must comply with CE requirements on an annual basis. CE courses offered by providers, on average, cost \$50 per hour course.
- The increase in the requirements for licensed hearing aid dispensers to obtain an additional three (3) hours of CE may result in an additional cost of roughly \$150 annually per licensed hearing aid dispenser.

**Effect on Housing Costs:** None

**EFFECT ON SMALL BUSINESS**

The Board has determined that this regulatory proposal will not have an effect on small businesses. The proposed changes do not place additional requirements on small business. As stated above individual licensed hearing aid dispensers experience an increased cost to complete their CE annually, due to the increase in proposed hours. The cost impact to licensees is estimated to be \$150 per year.

CE providers who are also small businesses may benefit from the annual increase in the CE requirement as licensees must pay the providers for the additional hours. The additional revenue is indeterminate.

## **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### **Impact on Jobs/Businesses:**

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

The proposal affects licensed hearing aid dispensers and requires the licensee obtain an additional three (3) hours of CE per year for license renewal. The proposal provides licensees the opportunity to participate in three (3) hours of self-study as applicable toward license renewal requirements, which offsets anytime the licensee would need to be absent from their job or business in order to comply with the proposed requirements.

### **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:**

The Board has determined that this regulatory proposal will benefit the health and welfare of California residents by being afforded better quality health care services by licensed hearing aid dispensers who participate in on-going professional education regarding their scope of responsibility. The proposal will have no direct effect on worker safety or the State's environment.

## **CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## **TEXT OF THE PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board at 2005 Evergreen Street, Suite 2100, Sacramento, CA 95815.

## **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

**CONTACT PERSON**

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Karen Robison  
Address: 2005 Evergreen Street, Suite 2100  
Sacramento, CA 95815  
Telephone No.: (916) 263-2291  
E-Mail Address: Karen.robison@dca.ca.gov

The backup contact person is:

Name: Breanne Humphreys  
Address: 2005 Evergreen Street, Suite 2100  
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Telephone No.: (916) 263-561-8779  
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Website Access: Materials regarding this proposal can be found at [www.speechandhearing.ca.gov](http://www.speechandhearing.ca.gov).