

**TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date:

No public hearing has been scheduled for this proposed regulatory action.

Subject Matter of Proposed Regulations:

Processing Times

Sections Affected:

Sections 1399.113 and 1399.141 of Division 13.3 and sections 1399.151.1, 1399.153.2, 1399.160.6, 1399.170.4, and 1399.170.13 of Division 13.4, Title 16 of the California Code of Regulations (CCR).¹

Background and Statement of the Problem:

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) licenses, regulates, and disciplines within the practices of speech-language pathology, audiology, and hearing aid dispensing in accordance with the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act (commencing with section 2530 of Division 2 of the Business and Professions Code (BPC)) (Act). The Board's mandate and mission is protection of the public. The Board oversees approximately 38,000 licensed or registered speech-language pathologists, speech-language pathology assistants, speech-language pathology aides, audiologists, dispensing audiologists, audiology aides, hearing aid dispensers, hearing aid dispenser trainees, temporary hearing aid dispensers, and continuing professional development providers.

Existing law under BPC sections 2531.06 and 2531.95 authorizes the Board to adopt or repeal regulations for the enforcement of the Act and the laws subject to its jurisdiction. The problem the Board is addressing with this proposed rulemaking is removing outdated processing time information from existing regulations through the formal rulemaking process.

In October 2021, the Board adopted proposed regulatory text to repeal CCR sections 1399.113 and 1399.151.1 through the Section 100 rulemaking process. However, those

¹ All CCR references are to Title 16 unless otherwise noted

sections did not qualify for the Section 100 rulemaking process due to the authority relied upon to adopt the Board's processing times in those regulations.

The Board adopted and amended various regulations related to processing times in accordance with the Permit Reform Act of 1981 (Government Code sections 15374-15378). The Permit Reform Act of 1981 required state agencies, including the Board, to adopt regulations regarding their procedures for considering and issuing permits. The Permit Reform Act of 1981 was repealed by the legislature per Assembly Bill (AB) 1757 (Committee on Budget, Chapter 229, Statutes of 2003). As a result, specifying processing times in regulation is no longer statutorily required and, for the reasons detailed herein, no longer functionally necessary.

The reality is that processing times are dynamic and not always consistent throughout the year. The timeframe for processing applications varies due to factors outside the Board's control. For example, the Board generally processes applications in the date order received, but the Board is statutorily required to expediate the processing of applications for applicants who qualify under BPC sections 115.4, 115.5, 115.6, and 135.4. This can result in expedited applications being processed much faster than the processing times identified in regulation and in delays for the non-expedited applications. Further, processing times increase with influxes in application submissions, generally occurring at the end of the academic year around the months of May and June, and this can result in a backlog lasting several months due to the volume of those applications. Conversely, processing times are reduced when there are lulls in application submissions. Applicants also experience an increase in processing time when submitting an incomplete application, which requires Board staff to contact the applicant for the missing information.

Although the uniformity of processing times throughout the year may be affected by factors outside the Board's control, the Board utilizes technology to track processing times and provide application information. In accordance with BPC section 139.5, the Board provides timeframes for processing license and registration applications on its internet website, which are more accurate and more current than what is found in regulation because they are based on actual workloads rather than ideal or theoretical workloads, as the regulations are. Moreover, despite the requirements of BPC section 139.5 to provide information on at least a quarterly basis, the Board's internal policy is to update application processing timeframes more frequently than a quarterly basis, subject to actual workloads.

The Board believes it does not serve the public to provide outdated and inaccurate processing times in regulation, and, instead, consistent with BPC section 139.5, provides processing times on the Board's website, which is a more appropriate location for current information about processing times. From the Board's website, interested parties can find the Board's processing times by clicking the Applicant/Registrant tab or the Contact Us link at the top of the Board's website. The webpages contain a table detailing the date through which applications are reviewed/processed, current

processing times, and average processing times over the past month. In addition, the table provides dates for different stages of the review process and dates for forms and approvals that do not require a background check from fingerprints. In addition, applicants can quickly and conveniently check the details and status of their application by visiting the Board's website and entering the requested identifying information. The screen will then display useful information related to the applicant's application, including the license type applied, the requirements for licensure, the applicant's status in fulfilling each of those requirements, and whether any deficiencies were identified in the applicant's application.

Because the processing times reflected in regulation fail to adequately account for actual workloads that have changed since they were adopted and because it would be unduly burdensome to update the regulations every time workloads change, the Board proposes to remove processing times related to hearing aid dispensers in section 1399.113 and related to speech-language pathology and audiology in section 1399.151.1, delete any references to sections 1399.113 or 1399.151.1, and remove any other processing times specified in regulations.

Anticipated benefits from this regulatory action:

The Board has determined that this regulatory proposal will have the following benefits:

This regulatory proposal does affect the health and welfare of California residents. The Board anticipates businesses and individuals who seek licensure or registration with the Board will benefit from this regulatory proposal because removing outdated information related to processing time will increase clarity. However, any benefits are unquantifiable at this time.

This regulatory proposal does not affect worker safety or the state's environment.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

1. Repeal Section 1399.113 of Article 2 of Division 13.3 of Title 16 of the CCR
 - A. Purpose: The proposed rulemaking deletes section 1399.113 from the CCR.
 - B. Rationale: Consistent with the repeal of the Permit Reform Act of 1981, the Board proposes to repeal CCR section 1399.113, which specifically states the Board's processing times for hearing aid dispenser license applications. Processing times are dynamic and vary for reasons beyond the Board's control, including applicants under an expediated process, seasonal increases and decreases in application submissions, and the submission of incomplete applications. Given the length of the rulemaking process, regulations naturally cannot be revised with the regularity needed to reflect accurate and up-to-date processing times. As such, the Board finds it is not necessary to state new or updated processing times in its

regulations. Instead, the Board displays processing times on its website, which is easily accessible and provides realistic expectations about how long the license and registration application review process can take at a given time. Although the Board is no longer statutorily required to specify its processing times in regulation, the Board provides timeframes for processing license and registration applications on its internet website in accordance with BPC section 139.5. The processing times on the Board's website are more accurate and more current than what appears in regulation because the information is based on actual workloads and is updated regularly. The Board's internal policy is to update processing timeframes on a weekly basis, subject to workloads, which far exceeds the quarterly updates required by BPC section 139.5.

2. Amend Section 1399.141 of Article 7 of Division 13.3 of Title 16 of the CCR

- A. Purpose: This proposed rulemaking amends subsection (a)(5) to make a grammatical correction by adding a comma after the word "training."

This proposed rulemaking also amends subsection (a)(5)(C) to make a grammatical correction to replace "years" to "(2) years of."

This proposed rulemaking also amends subsection (c) to delete processing times for the following: (i) the Board to inform continuing education provider applicants whether their application is complete; (ii) the applicant to correct any issues that arise during the review process; and (iii) the Board to approve or deny the application. This subsection is also amended to make a grammatical correction to replace "30" with "thirty (30)."

This proposed rulemaking also amends subsection (f) to delete reference to subsection (c) processing times.

- B. Rationale: Subsection (a)(5) and (a)(5)(C) are amended to maintain consistency with the writing and formatting style found in other parts of these regulations.

Language from subsection (c), related to the timeframe for the Board to inform continuing education provider applicants whether their application is complete and the timeframe for the Board to approve or deny applications, is deleted because it is no longer statutorily required or functionally necessary to specify processing times in regulation following the repeal of the Permit Reform Act of 1981 by AB 1757 and given the requirements of BPC section 139.5. Pursuant to BPC section 139.5, the Board provides timeframes for processing applications on its website. The website is more accurate and more current than the regulations because the website is updated on a more frequent basis than the regulations, which must go through the rulemaking process for amendment. For these reasons, the Board does not find it necessary to state new or updated information regarding processing times in its regulations.

Language from subsection (c), related to the timeframe for applicants to correct issues arising during the review process, is deleted because it is outdated and no longer aligns with the Board's current or average processing time.

Subsection (c) is amended to replace "30" with "thirty (30)" for the purpose of maintaining consistency with the writing and formatting style found in other parts of these regulations.

The Board proposes to amend subsection (f) by striking out language referencing the timeframe set forth in subsection (c) because processing time is being deleted from subsection (c) by this proposed regulatory action.

3. Repeal Section 1399.151.1 of Article 2 of Division 13.4 of Title 16 of the CCR

- A. Purpose: The proposed rulemaking deletes section 1399.151.1 from the CCR.
- B. Rationale: Consistent with the repeal of the Permit Reform Act of 1981 the Board proposes to repeal CCR section 1399.151.1, which specifically states the Board's processing times related to speech language pathology and audiology. The rationale for repealing CCR section 1399.151.1 is the same rationale as previously stated in Section 1.B above with respect to repealing CCR section 1399.113.

4. Amend Section 1399.153.2 of Article 4 of Division 13.4 of Title 16 of the CCR

- A. Purpose: The proposed rulemaking amends subsection (a) to eliminate gendered pronouns and replaces them with gender-neutral terms.

The proposed rulemaking also amends subsection (a) to delete language stating the Board's processing time for reviewing and notifying the approval or disapproval of required professional experience (RPE) plan applications and an applicant's credentials for licensure.

- B. Rationale: The rationale for changing gendered terms to gender-neutral terms is to parallel other efforts throughout the state in accordance with Assembly Concurrent Resolution No. 260 of 2018 and are without regulatory effect.

The rationale for striking out language from subsection (a) of section 1399.153.2, related to the timeframes for the Board to review and notify the approval of RPE plan applications and an applicant's credentials for licensure, is the same rationale as previously stated in Section 2.B above with respect to deleting processing times from subsection (c) of CCR 1399.141.

5. Amend Section 1399.160.6 of Article 11 of Division 13.4 of Title 16 of the CCR

- A. Purpose: The proposed action amends subsections (b) and (c) to delete reference to section 1399.151.1.

The proposed action also amends subsections (b)(1) and (c)(1) to make grammatical corrections by adding a comma after the phrases “telephone number” found in both of those subsections.

The proposed action also amends the authority and reference citation in the notation to delete reference to specific subsections.

- B. Rationale: Amending subsections (b) and (c) are necessary because section 1399.151.1 is being repealed by this proposed regulatory action, so any reference to that section should also be deleted from the CCR.

Subsection (b)(1) and (c)(1) are amended to maintain consistency with the writing and formatting style found in other parts of these regulations.

The deletion of specific subsections in the authority and reference citation in the note is necessary to maintain consistency with the writing and citation style found in other parts of these regulations.

6. Amend Section 1399.170.4 of Article 12 of Division 13.4 of Title 16 of the CCR

- A. Purpose: The proposed rulemaking amends subsection (e) to delete the processing time for the Board to notify an educational institution of the Board’s decision regarding a request for approval of a speech-language pathology assistant training program.

The proposed action also amends the authority and reference citation in the notation to delete reference to specific subsections.

- B. Rationale: The rationale for striking out language from subsection (e) of section 1399.170.4, related to processing time for the Board to notify an educational institution of the Board’s decision regarding a request for approval of a speech-language pathology assistant training program, is the same rationale as previously stated in Section 2.B above with respect to deleting processing times from subsection (c) of section 1399.141.

The deletion of specific subsections in the authority and reference citation in the note is necessary to maintain consistency with the writing and citation style found in other parts of these regulations.

7. Amend Section 1399.170.13 of Article 12 of Division 13.4 of Title 16 of the CCR

- A. Purpose: This proposed rulemaking amends section 1399.170.13 to delete reference to section 1399.151.1.

The proposed action also amends the authority and reference citation in the notation to delete reference to specific subsections.

- B. Rationale: Section 1399.170.13 is amended because this proposed regulatory action repeals Section 1399.151.1, so any reference to that section should also be deleted from the CCR.

The deletion of specific subsections in the authority and reference citation in the note is necessary to maintain consistency with the writing and citation style found in other parts of these regulations.

Underlying Data:

1. May 12-13, 2022 Board Meeting Agenda, relevant materials, and Minutes
2. August 11-12, 2022 Board Meeting Agenda, relevant materials, and Minutes
3. November 30-December 1, 2023 Board Meeting Agenda, relevant materials, and Minutes
4. September 5-6, 2024 Board Meeting Agenda, relevant materials, and Minutes

Business Impact:

The Board has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the inability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulatory action deletes obsolete provisions related to application processing times and does not enhance or inhibit industry growth within the industries the Board regulates.

The Board is not aware of any costs that businesses or individuals may incur to comply with this regulation over its lifetime nor of any other economic costs. The Board is also not aware of any effect this proposed regulatory action will have on housing costs or impact to local agencies or federal funding to the state.

The Board is aware of benefits that may occur for businesses or individuals to comply with this regulation over its lifetime. The Board anticipates businesses and individuals who seek licensure or registration with the Board will benefit from this regulatory proposal because removing outdated information related to processing time will increase clarity. However, any benefits are unquantifiable at this time.

Economic Impact Assessment:

This Board has determined that this regulatory proposal will have the following effects:

It will not create or eliminate jobs within the State of California because the proposed regulatory action deletes obsolete provisions related to application processing times and does not enhance or inhibit industry growth within the industries the Board regulates.

It will not create new business or eliminate existing businesses within the State of California because the proposed regulatory action deletes obsolete provisions related to application processing times and does not enhance or inhibit industry growth within the industries the Board regulates.

It will not affect the expansion of businesses currently doing business within the State of California because the proposed regulatory action deletes obsolete provisions related to application processing times and does not inhibit industry growth within the industries the Board regulates.

This regulatory proposal does affect the health and welfare of California residents. The Board anticipates businesses and individuals who seek licensure or registration with the Board will benefit from this regulatory proposal because removing outdated information related to processing time will increase clarity.

This regulatory proposal does not affect worker safety because the proposed regulatory action deletes obsolete provisions related to application processing times and does not concern or impact worker safety.

This regulatory proposal does not affect the state's environment because the proposed regulatory action deletes obsolete provisions related to application processing times and does not concern or impact 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 either 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.

No such alternatives have been proposed, however, the Board welcomes comments from the public.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.