

**TITLE 16. Speech-Language Pathology and Audiology  
and Hearing Aid Dispensers Board  
DEPARTMENT OF CONSUMER AFFAIRS**

**UPDATE TO THE FINAL STATEMENT OF REASONS**

**Subject Matter of Proposed Regulations**

Continuing Education (CE) Requirements for Hearing Aid Dispensers

**Sections Affected**

Sections 1399.140, 1399.140.1, and 1399.144 of Article 7 of Division 13.3 of Title 16 of the California Code of Regulations (CCR).

**Updated Information**

The information contained in the FSOR is updated as follows:

The Board submitted the rulemaking file on March 21, 2024, to the Office of Administrative Law (OAL), and subsequently withdrew it on May 1, 2024, to incorporate OAL recommended modifications to the text. The following proposed modifications were made to the text and published for public comment between May 14 – 29, 2024 with the intention that it would be presented to the Board for ratification at this meeting:

1. *Amended section 1399.140(a)(1) to add “, or both.”* This change is to inform the public that this text is being added to the regulatory language. This is because the text was never noticed to the public as new text. This was added in the original proposed text and approved by the Board on April 27, 2023.
2. *Amended section 1399.140(h) to remove “up to.”* This change is for clarity. The Board requires full participation for each day of service in the development and administration of the examination in order to stay in compliance with Business and Professions Code (BPC) section 139. For that reason, the Board cannot provide partial participation for each day of service and as such it cannot provide partial credit.
3. *Amended section 1399.140(j) to replace “participating in” with “completing” and remove “no more than.”* These changes are for clarity. The Board requires full participation in the survey it sends out to its license population in order to receive credit. Full participation in this survey is necessary because is used in to develop the occupational analyses that is required by BPC section 139. Because the survey has to be completed in its entirety, the Board cannot provide partial credit.

The Board received four (4) written comments during the 15-day comment period and eight (8) written comments after the end of the 15-day comment period for a total of

twelve (12)<sup>1</sup> comments on the modified text:

- Twelve (12) comments were not related to the proposed modified text.

The Administrative Procedure Act (APA) does not require the Board to review or respond to written comments in support of this regulatory action during the final rulemaking process. However, the Board is required to review or respond to timely written comments that object or make a recommendation regarding the regulatory action or the procedures followed by the Board in proposing the regulatory action. The Board is also required to respond to any timely written comments received regarding the changes made to the proposed regulatory text if the comments received during the public comment period concern the most recent modifications made to the text.

During the June 12, 2024, Board meeting, the Board reviewed and responded to written comments and determined to not make changes to the proposed regulatory text to accommodate the comments (discussed below).

### **Summary of Comments and Draft Board Response (During 15-Day)**

**Summary:** The Board received four (4) timely comments recommending one hundred (100) percent non-live CEUs.

**Board Response:** The comments were not specifically directed at the proposed modifications made to the text that was noticed to the public on May 14, 2024, and as such, the Board declined to make any amendments to the proposed text based thereon, pursuant to Government Code section 11346.8(c). The proposed modifications only concern clarifying that the “, or both” language of section 1399.140(a)(1) is being added to the regulatory language, removing “up to” from section 1399.140(h), and replacing “participating in” with “completing” and removing “no more than” from section 1399.140(j). The comments about the amount of required non-live CEUs are not part of the proposed modifications.

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<sup>1</sup> The Board notes it has two separate open regulatory packages that address CE: this proposed action relating to the practice of hearing aid dispensers (Hearing Aid Dispensers Continuing Education Requirements) and a separate proposed action relating to the practices of speech-language pathology and audiology (Continuing Professional Development Requirements). The Board reached out to the commenters to obtain clarification as to which package they were providing comment. Either the Board did not receive a response or the response indicated the comment was directed at both packages. As a result, the Board is addressing the comments in both the Hearing Aid Dispensers Continuing Education Requirements and the Continuing Professional Development Requirements packages because they were received during the open comments.