

## Hearing Aid Dispensers Law Regarding Continuing Education:

### 3327.5. Continuing Education

All holders of licenses to sell or fit hearing aids shall continue their education after receiving the license. The board shall provide by regulation, as a condition to the renewal of a license, that licensees shall submit documentation satisfactory to the board that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the board or by other means defined as equivalent by the board.

### Title 16, Chapter 13.3 Hearing Aid Dispensers Regulations Article 7. Continuing Education Proposed Language

**Amend Sections 1399.140 – 1399.143 of Article 6 of Division 13.3 of Title 16 as follows:**

#### **Section 1399.140 - Continuing Education Required.**

(a) 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 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 n~~ Not more than ~~three (3)~~ four (4) hours of continuing education may be credited in any of the following areas ~~related to hearing aids: related, or indirect client care courses as provided in Section 1399.140.1 ethics (including the ethics of advertising and marketing) or business practices~~. Not more than [ ] hours may be credited for self-study or correspondence-type coursework, e.g., tape recorded courses, home study materials, videotape materials, or computer courses. [Does the Committee want to allow for additional hrs of self-study should the self-study hours be included in the four hours above]

(b) Records showing completion of each continuing education course shall be maintained by the dispenser for three (3) years following the renewal period. Records shall be provided to the Board in response to a compliance audit conducted.

~~(b)~~ (c) Each dispenser renewing his or her license under the provisions of Section 3451 of the code shall be required to submit proof satisfactory to the board of compliance with the provisions of this article.

~~(c)~~ (d) Such proof shall be submitted at the time of license renewal on a form provided by the board.

~~(d)~~ (e) ~~Any~~ For a license that expires on or before December 31, 2010, a dispenser who cannot complete the minimum hours required under subsection (a) may have his or her license renewed, but shall make up any deficiency during the following year renewal period. If the dispenser does not complete the deficient hours in addition to the minimum hours for the current year, he or she shall be ineligible for the next renewal of his or her license unless such dispenser applies for and obtains a waiver pursuant to Section 1399.144 below.

~~(e)~~ (f) This article shall not apply to any dispenser who is renewing a license for the first time following ~~was issued~~ the issuance of an initial permanent license ~~for the first time within the preceding calendar year~~.

(f) (g) Any person whose hearing aid dispenser's license has been expired for two years or more shall complete the required hours of approved continuing education for the prior two years before such license may be restored.

Note: Authority and reference cited: Section 3327.5, Business and Professions Code.

### **Section 1399.140.1 - Continuing Education Course Content**

(a) The content of a continuing education course shall pertain to direct, related, or indirect patient/client care.

(1) direct client care courses cover current practices in the fitting of hearing aids...

(2) Indirect patient/client care courses cover pragmatic aspects of hearing aid dispensing (e.g., legal or ethical issues (including the ethics of advertising and marketing, consultation, record-keeping, office management, managed care issues, business practices).

(3) Courses that are related to the discipline of hearing aid dispensing may cover general health condition or educational course offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, service delivery models, interdisciplinary case management issues, or medical pathologies related to neurological disorders that also result in hearing difficulties.

### **1399.141. Approval of Continuing Education Providers.**

(a) In order to be approved by the board as a continuing education provider the following information shall be submitted with an application provided by the board:

(1) Description of course content of all courses to be offered. The course content for all courses, including ethics and business practices, shall be current practices related to the fitting of hearing aids for aiding or compensating for impaired human hearing or any of the subjects listed in subsection (a) of section 1399.140, and within the scope of practice for a dispenser as defined by the Code and generally shall be for the benefit of the consumer. The course content shall be information related to the fitting of hearing aids, and this information shall be at a level above that basic knowledge required for licensure as set forth in Section 3353 of the Code, except that basic knowledge which would serve as a brief introduction to the course. The phrase "at a level above that basic knowledge" means any subjects, issues, topics, theories, or findings that are more advanced than the entry level of knowledge described in those basic subjects listed in subdivision (b) of Section 3353. Examples of courses that are considered outside the scope of acceptable course content include: personal finances and business matters; marketing and sales, where the content focuses on the equipment, devices, or other products of a particular publisher, company, or corporation; increasing profitability; and office operations that are not for the benefit of the consumer.

(2) Method of instruction for course(s) offered. Teaching methods for each course or program shall be described, e.g., lecture, seminar, audiovisual, simulation, etc.

(3) Education objectives. Each course or program shall clearly state the educational objective that can be realistically accomplished within the framework of the course or program, and the number of hours of continuing education credit which may be obtained by completion of a specified course.

(4) Qualifications of instructors. Instructors shall be qualified to teach the specified course content by virtue of their prior education, training and experience. A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications: (a) a license, registration, or certificate in an area related to the subject matter of the course. The license, registration, or certificate shall be current, valid, and free from

restrictions due to disciplinary action by the Board or any other health care regulatory agency; (b) training, certification, or experience in teaching courses in the subject matter; or (c) at least two years' experience in an area related to the subject matter of the course. A resume of each instructor shall be forwarded with the application for approval.

(5) Evaluation. Each course or program shall include an evaluation method which documents that educational objectives have been met, such as, but not limited to, a written evaluation or written examination by each participant.

(6) Open to Licensees. Only those courses or programs which are open to all licensed hearing aid dispensers shall be approved by the board.

(b) Providers shall maintain a record of attendance of each participant who is licensed as a hearing aid dispenser ~~and submit that record to the board no later than December 31 of each calendar year~~ for a period of four (4) years, and shall provide such record to the board upon request. The record shall indicate those dispensers who have complied with the requirements of the course or program offered.

(c) Applications for approval of a continuing education provider shall be submitted to the board at its Sacramento office ~~at least 45 days before the date of the first course or program offering to be approved~~ allowing for sufficient time for review and prior approval as follows. The Board will inform the provider within 30 days of receipt of the application whether the application is complete or deficient. The provider shall cure any deficiency within 30 days of such notice. The Board will approve or deny the application within 30 days of the date that the application is complete, or the last date to cure the deficiency. A provider may appeal to the Board the denial of approval of any course. Such appeal shall be filed with the Board not more than 30 days after the date of notice of such denial.

(d) Any change in the course content or instructor shall be reported to the board on a timely basis.

(e) The board may withdraw the approval of any provider for failure to comply with the provisions of this section.

(f) Each provider shall submit to the board on an annual basis a description or outline of each approved course to be offered the following year and a resume of any new instructor who will be presenting the course. This information shall be submitted prior to the re-offering of the course within the ~~time limit~~ timeframe set forth in subsection (c).

Note: Authority cited: Section 3327.5, Business and Professions Code. Reference: Section 3327.5, Business and Professions Code.

### **1399.142. Sanctions for Noncompliance.**

(a) Any dispenser who does not complete the required number of hours of continuing education will be required to make up any deficiency during the next calendar year and renewal cycle. Such dispenser shall document to the board the completion of any deficient hours. Any dispenser who fails to make up the deficient hours and the hours of required continuing education for the current year shall be ineligible for the next renewal of his or her license to dispense hearing aids until such time as the deficient hours of continuing education are documented to the board.

(b) ~~Fraudently~~ In addition to any other sanction, fraudulently misrepresenting compliance with the continuing education requirements of Section 3327.5 of the code and this article shall constitute "obtaining a license by fraud or deceit" as those terms are used in Section 3401, subd. ~~(e)~~ (e), of the code.

Note: Authority cited: Sections 3327.5 and 3328, Business and Professions Code. Reference: Section 3327.5, Business and Professions Code.

**1399.143. Repetition of Courses.**

Credit will not be given toward approved continuing education coursework which is substantially similar to coursework which was successfully completed within the preceding ~~three (3)~~ two (2) years and used to meet the continuing education requirements of this article and Section 3327.5 of the code.

Note: Authority and reference cited: Section 3327.5, Business and Professions Code.

**HEARING AID DISPENSERS BUREAU**

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Website: [www.dca.ca.gov/hearingaid](http://www.dca.ca.gov/hearingaid)

## **CONTINUING EDUCATION COURSE PROVIDER GUIDELINES**

The Hearing Aid Dispensers Bureau developed the following guidelines to assist providers in completing the Continuing Education Course Approval Application. California licensed hearing aid dispensers are required to complete 9 hours of continuing education (CE) hours per calendar year. Licensees may not “bank” or save CE credit for future renewals. Please refer to Article 7, Section 1399.140 et. seq. of the regulations regarding continuing education.

### ***Application and Fee***

The Hearing Aid Dispensers Bureau must receive a completed Continuing Education Course Approval Application and \$50.00 non-refundable fee at least 45 days prior to the date of the first offering of the program. An application and \$50.00 fee is required for each course of a program if the courses are not directly related. The omission of any of the information requested on the application may delay the approval process.

### ***Location***

Courses may be offered in any location.

A course may be approved pending receipt of the exact location for the program. It is important that the provider submit this information as soon as it is available so the course can be included on the approved CE list.

### ***Educational Objectives***

Goals and objectives are to be listed on the provider application. The Hearing Aid Dispensers Bureau needs to know the breadth and depth of the presentation for an adequate evaluation.

### ***Description of course content***

A detailed outline of the course should accompany the provider application. The outline should include one-paragraph descriptions for each topic to be presented, specific times for each section of the course, and the instructor/presenter for each segment of the course.

**Sketchy outlines submitted without adequate course descriptions will be rejected as incomplete.**

**Dispensers must obtain a minimum of six (6) of the nine (9) hours from courses consisting of current practices related to the fitting of hearing aids for aiding or compensating for impaired human hearing. A maximum of three (3) of the nine (9) hours may be obtained from courses in ethics and/or business practices.<sup>1</sup>**

**Per Section 1399.141 of the Regulations Relating to the Practice of Hearing Aid Dispensing, course content must be related to current practices related to the fitting of hearing aids for aiding or compensating for impaired human hearing or ethics (including the ethics of advertising and marketing) or business practices and must be at a level above the basic knowledge required for licensure.**

### ***Video Courses***

Video course submissions are subject to all current regulations, policies, and procedures. Each course proposal must include a designated person to be responsible for attendance records at each location. Licensees will receive CE credit only when attending the approved date(s) and location(s).

### ***Required Information***

Please include the speaker's name; the topic to be presented; the format; and the number of hours. (Example: Mr. John Kuo, "Hearing Aid Evaluation Procedures", lecture and demonstration, 1-1/2 hours.)

### ***Instructors***

A resume or vitae is required for each speaker. Although a speaker may have been approved in the past, all speakers are not qualified by training or experience to speak on all topics. A paragraph or two describing the qualifications, training and experience of the instructor to address the specific subject at hand is useful.

The speaker may receive credit for presenting an approved course. Credit for presenting a particular course will be granted only once during a three-year period. To do so, the speaker's name and hearing aid dispenser license number must be included on the attendance list.

### ***Evaluation Method***

The course evaluation form must be included in the application packet. The participants should also evaluate the program speaker(s). A simple rating form is satisfactory.

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<sup>1</sup> Licensees will not receive more than three (3) hours of continuing education credit annually for ethics or business practices courses.

### ***Record of Attendance***

Regulations require the provider to maintain a record of attendance for each participant who is licensed as a hearing aid dispenser. Providers should designate a person responsible for maintaining the attendance records. A sign-in/sign-out sheet or card must be used to verify attendance of course hours. Participants should sign-in again after a lunch break and sign-out at the completion of the course.

### ***Certificates***

Providers are encouraged to issue certificates of completion to participants who have successfully completed their program. This enables hearing aid dispensers to better monitor their CE hours. In addition, when a licensee is audited, or asked to produce evidence of CE completion at license renewal, a copy of the certificate can be submitted as verification.

### ***Changes***

Any deviation from the approved application must be submitted to the Hearing Aid Dispensers Bureau office for review in writing prior to the course offering. This includes changes in course content and/or instructor, dates, times, and locations.

### ***Repetition of Course***

Approved non-video courses may be offered any number of times within the calendar year, providing that the same speakers and topics are used. Additional dates and locations must be submitted to the Bureau in writing.

### ***Program Monitor***

A program monitor **may** be assigned to evaluate an approved CE course. The monitor may be a hearing aid dispenser asked to represent the Hearing Aid Dispenses Bureau. All program registration fees are waived for official monitors if they are NOT receiving CE credit. **Monitors may not receive CE credit for attending the course unless they choose to pay their own registration fees.** The provider, not the program monitor, is responsible for keeping attendance. The provider may write the Bureau for a copy of the monitor's course evaluation report.

Revised 02/04

**Title 16 Division 13.4**  
**Article 5. Speech-Language Pathology & Audiology Aides**

**1399.154. Definitions.**

As used in this article, the term:

- (a) "Speech-language pathology aide" means a person who
  - (1) assists or facilitates while a speech-language pathologist is evaluating the speech and/or language of individuals or is treating individuals with a speech-language and/or language disorder and
  - (2) is registered by the supervisor with the board and the registration is approved by the board.
- (b) "Audiology aide" means a person who
  - (1) assists or facilitates while an audiologist is evaluating the hearing of individuals and/or is treating individuals with hearing disorders, and
  - (2) is registered by the supervisor with the board and the registration is approved by the board.
- (c) "Supervisor" means a licensed speech-language pathologist who supervises a speech-language pathology aide or a licensed audiologist who supervises an audiology aide.
- (d) "Industrial audiology aide" means an audiology aide who conducts pure tone air conduction threshold audiograms for the purpose of industrial hearing testing in addition to other acts and services as provided in these regulations.

(e) Direct supervision means on-site observation and guidance by the speech-language pathology or audiology supervisor while the speech-language pathology or audiology aide is treating a patient or client.

NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.2 and 2530.6, Business and Professions Code.

**1399.154.2. Responsibilities of Aide's Supervisor.**

A supervisor of a speech-language pathology or audiology aide shall:

- (a) Have legal responsibility for the health, safety and welfare of the patients.
- (b) Have legal responsibility for the acts and services provided by the speech-language pathology or audiology aide, including compliance with the provisions of the Act and these regulations.
- ~~(c) Be physically present while the speech-language pathology or audiology aide is assisting with patients, unless an alternate plan of supervision has been approved by the board. A supervisor of an industrial audiology aide shall include a proposed plan for alternative supervision with the application form. An industrial audiology aide may only be authorized to conduct puretone air conduction threshold audiograms when performing outside the physical presence of a supervisor. The supervisor shall review the patient histories and the audiograms and make the necessary referrals for evaluation and treatment.~~ Directly supervise the speech-pathology or audiology aide when he or she is engaged in direct client or patient care or assisting with patients. Direct supervision is not required for an industrial audiology aide, if all of the following conditions are met:
  - (1) An alternative plan of supervision has been approved by the board.
  - (2) The supervisor includes the proposed plan with his or her application form.
  - (3) The only activity the industrial audiology aide performs outside the physical presence of the supervisor is puretone air conduction threshold audiograms.
  - (4) Following the conduction of any puretone air conduction threshold audiograms, the supervisor reviews the patient histories and the audiograms and make any necessary referrals for evaluation and treatment.
- (d) Evaluate, treat, manage and determine the future dispositions of patients.
- (e) Appropriately train the speech-language pathology or audiology aide to perform duties to effectively assist in evaluation and/or treatment. A supervisor shall establish and complete a training program for a speech-language pathology or audiology aide in accordance with Section 1399.154.4 which is unique to the duties of the aide and the setting in which he or she will be assisting the supervisor.

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(f) Define the services which may be provided by the speech-language pathology or audiology aide. Those services shall not exceed the competency of the aide as determined by his or her education, training and experience, and shall not include any treatment beyond the plan established by the supervisor for the patient.

NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.2 and 2530.6, Business and Professions Code.

# **2010 Audiology Assistant Position Statement – For Peer Review**

## **Introduction & Rationale**

This position paper defines the function of audiology assistants. It provides guidance on the education and training, duties and responsibilities, patient care and safety, and the requisite supervision of assistants. The document is intended for use by audiologists, consumers of audiologic services, and persons seeking to become assistants. It is intended to be used as a guide for issues involving audiology assistants and to serve as a reference for issues of service delivery, third-party reimbursement, legislation, consumer education, regulatory action, state licensure and registration, and inter-professional relations. The background and rationale for the findings are reported in the Task Force Report (American Academy of Audiology, 2010).

Audiology is poised to experience an expansion in need for audiologic services. The appropriate use of assistants positions the profession to meet the expanding needs for patient care in a cost-effective manner, without compromising patient care.

It is the purpose of this document to define the role of the audiology assistant in supporting audiologists in the delivery of audiologic services under the supervision of a licensed audiologist. It is incumbent upon the audiologist and audiology assistant to be knowledgeable of their respective state licensure laws. This document is not meant in any way to negate or supersede the authority of a state to regulate the use of audiology assistants.

## **Definition**

An audiology assistant is a person who, after appropriate training and demonstration of competency, performs delegated duties and responsibilities that are directed and supervised by an audiologist. The role of the assistant is to support the audiologist in performing routine tasks and duties so that the audiologist is available for the more complex evaluative, diagnostic, management and treatment services that require the education and training of a licensed audiologist.

## **Position Statement**

It is the position of the American Academy of Audiology that audiology assistants are important to the future of this profession and they can provide valuable support to audiologists in the delivery of quality services to patients. The duties and responsibilities of audiology assistants should be delegated only by supervising audiologists. The supervising audiologist maintains the legal and ethical responsibilities for all assigned activities that the audiology assistant provides. The needs of the consumer of audiology services and protection of the patient must always be paramount. Licensed audiologists, by virtue of their education and training, are the appropriate and only qualified professionals to supervise and train audiology assistants.

## **Duties & Responsibilities**

The Academy's Code of Ethics, Rule 2D states:

"Individuals shall provide appropriate supervision and assume full responsibility for services delegated to supportive personnel. Individuals shall not delegate any service requiring professional competence to unqualified persons."

The duties and responsibilities assigned to an audiology assistant will be based on the training, available supervision and practice setting. These duties and responsibilities may be further regulated by the limits imposed by state law. The scope of practice of the supervising audiologist will also dictate the duties and responsibilities assigned to the assistant. The purpose of the audiology assistant is to improve access to patient care by increasing availability of audiologic services; increasing productivity by reducing wait times and enhancing patient satisfaction; and reducing costs by enabling assistants to perform tasks that do not require the skills of a licensed audiologist. Some duties and responsibilities require direct supervision and some require indirect supervision.

The duties and responsibilities of the audiology assistant must be limited to those that do not require professional judgment. Examples of the types of services an assistant can perform (after appropriate training and demonstration of competency) include equipment maintenance, hearing aid repair, neonatal screening, preparation of patient for electrophysiologic and balance testing, hearing conservation and assisting the audiologist in testing. Record-keeping, assisting in clinical research, clerical duties and other administrative support functions can be delegated to the assistant after full and complete training and delineation of supervisory needs by the audiologist. It would not be appropriate to assign to an assistant the evaluation of patients, even when the audiology assistant does not make the diagnosis or interpret results, and it is noted that Medicare will not reimburse for diagnostic services provided by an audiology assistant. Independent adjustment of hearing aid settings would similarly not be appropriate.

## **Education & Training; Patient Care & Safety**

The minimal educational background for an audiology assistant should be a high school diploma, or equivalent, and competency-based training. In addition, audiologists are to consult their state's licensure or registration laws as they pertain to audiology assistants.

Formalized training programs, which have regimented instructional sequences, and which utilize an audiologist in the hands-on training of the assistant, are an efficient means of training an audiology assistant. Because of the diversity in the duties and responsibilities that states allow an assistant to conduct, audiologists should evaluate training programs to determine if they cover the full proposed duties and responsibilities. The audiologist should examine whether the training system teaches tasks that are not allowed by their state licensing body, or are not appropriate in the practice setting, or are not tasks that the audiologist expects to delegate, and if so, determine whether those modules may be omitted. Use of a formal training program may be efficient, as it reduces the audiologist's time teaching concepts; however, regardless of the

training system used, the audiologist remains responsible for ensuring that the assistant is competent in the assigned tasks.

The audiologist who employs and/or supervises audiology assistants shall maintain legal and ethical responsibility for all services provided by the assistants.

Training provided by a supervising audiologist should include specific instruction and demonstration of each task the assistant is to perform and continuous, direct observation by the audiologist until the assistant demonstrates competency with the task. The assistant will not perform any task with less than direct supervision until the audiologist determines the assistant is fully competent.

The audiology assistant shall engage only in those duties and responsibilities that are planned, delegated and supervised by the audiologist. The audiology assistant should be clearly identified as an assistant by means of a name tag or similar identification. Disclosure (oral or written) should be provided to patients, as appropriate. Individual state licensing laws may have additional requirements.

## **Supervision**

While an assistant may support more than one audiologist within a practice, one state-licensed audiologist should be designated as the person ultimately responsible for the assistant and accept the primary role in the clinical, technical and administrative actions related to audiology assistants. It is the position of the Academy that services provided by an audiology assistant will be delegated by and supervised by the state-licensed audiologist. Tasks assigned must not extend beyond the defined range of knowledge and skills of the assistant.

Once the assistant is considered appropriately trained, the supervising audiologist should determine the level of day-to-day supervision and develop a monitoring strategy to help the assistant maintain accurate knowledge and skill level for his/her position. The audiologist will also determine the need for ongoing training to update the assistant's skill set and/or introduction of new procedures, techniques and treatment options.

The number of assistants supervised by one audiologist will be in concert with the provision of highest quality patient care. At all times, the supervising audiologist should hold paramount the needs of the patient and entrust to the assistant only those services for which they are qualified.

### References:

American Academy of Audiology Audiology Assistant Task Force Report (2010). To be published in the May/June Audiology Today issue.

American Academy of Audiology Position Statement on Audiologist's Assistants (2006). <http://www.audiology.org/resources/documentlibrary/Pages/AudiologistsAssistant.aspx>

**SURVEY OF AUDIOLOGY AIDE DUTIES  
AND ASSIGNED SUPERVISION STANDARDS**

1.) Do you agree that the tasks listed on the *Sample of Audiology Aide Duties* are appropriate to assign to audiology support personnel?

Yes     No    If no, please indicate what tasks should be stricken or added to the list.

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2.) Do you agree with the tasks listed under “Direct Supervision” meaning in line-of-sight supervision on the *Audiology Aide Supervision Table*?

Yes     No    If no, please indicate what tasks should be stricken or added to the list.

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3.) Do you agree with the tasks listed under “General Supervision” meaning in the facility and available for immediate consultation on the *Audiology Aide Supervision Table*?

Yes     No    If no, please indicate what tasks should be stricken or added to the list.

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4.) Do you agree with the tasks listed under “Indirect Supervision” meaning not in the facility but available by telephonic or other electronic means on the *Audiology Aide Supervision Table*?

Yes     No    If no, please indicate what tasks should be stricken or added to the list.

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5.) Do you agree that the tasks listed under the heading “Other-Not An Audiology Function” should be categorized as such, meaning that no regulation of the tasks is necessary?

Yes     No    If no, please indicate what tasks should be stricken or added to the list.

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Please submit your survey responses by fax: (916) 263-2668 or email: [slpab@dca.ca.gov](mailto:slpab@dca.ca.gov)  
Written Responses May to Mailed to:  
SLPAB, Attn: Annemarie Del Mugnaio  
2005 Evergreen Street, Suite 2100  
Sacramento, CA 95815

## AUDIOLOGY AIDE SUPERVISION TABLE

<b>DIRECT SUPERVISION- (IN PLAIN VEIW)</b>	<b>GENERAL SUPERVISION (IN FACILITY-AVAILABLE FOR IMMEDIATE CONSULTATION)</b>	<b>INDIRECT SUPERVISION (NOT IN FACILITY-AVAILABLE BY TELEPHONE OR ELECTRONIC MEANS)</b>	<b>OTHER- NOT A AUDIOLOGY FUNCTION (GENERAL ADMINISTRATIVE DUTY. DOES NOT REQUIRE A HEALTH CARE LICENSE TO PERFORM. )</b>
Test assistant for pediatric evaluations	Hearing Screening	Hearing Aid Troubleshooting	Front-Office Work
Take Earmold Impressions (high-risk procedure)	Pure Tone Air-Conduction, Bone Conduction, Speech Testing	Hearing Aid Repair	Selling Ancillary Sevices (TV Ears, Batteries, Cleaning Tools etc)
Assist in Biological Calibration	Infant Re-Screens (automated ABR or OAE) without interpretation or parent counseling	Hearing aid maintenance (cleaning, tubing change, replace battery door, etc)	Equipment Maintenance
	Re-Programming Hearing Aids or Cochlear Implants	Earmold Modification	Supply and Instrument Ordering
	ENG/VNG testing	Provide Pre-Scripted and Video- Taped Instruction and Education on Hearing and Hearing Conservation for OSHA	Maintain Exam Rooms
	Hearing Aid Orientation (how to insert/remove, how to change battery, how to maipulate switches, how to clean)	Electroacoustic Analysis of Hearing Aids	NOAH Software Patient Data Input and Programming Set-up
	Selling Assistive Listening Devices (e.g., Pocket Talker)		Scheduling
	Providing "loaner" Hearing Aids		Chart Management
	Performing Otoscopy (only for the purpose of looking for cerumen occlusion)		Clerical tasks
	Perform Tympanometry/Acoustic Reflex Threshold, OAE		Translation
	Hook up patients for automatic testing (otogram)		

State Aud Support Pers Sprdsht

<b>STATE</b>	<b>REGULATED: License, Registration, Certification, or None?</b>	<b>If Regulated, What is Regulatory Document's Citation Number?</b>	<b>Link(s)</b>	<b>EDUCATION</b>	<b>What Level of Supervision is Required?</b>	<b>Max-imum Number of Assistants per Aud?</b>	<b>Are "Auth- orized" Duties Named?</b>	<b>Are "Prohibited" Duties Named?</b>	<b>Specific Training Required?</b>	<b>Need Con- tinuing Ed?</b>
<b>Alabama</b>	Registration	ABESPA Rules and Regulations and Administrative Code Chpt 870-X-1	<a href="http://abespa.org/rules.htm">http://abespa.org/rules.htm</a> and <a href="http://abespa.org/files/Code2007.pdf">http://abespa.org/files/Code2007.pdf</a>	Bachelors degree in Communication Disorders or similar	Must specify within submitted plan; 10% direct supervision	N/A	Yes	Yes	Submit training and work plan	No
<b>Alaska</b>	None (SLP Yes)									
<b>Arizona</b>	None (SLP Yes)		<a href="http://www.azdhs.gov/alerts/hadisp/">http://www.azdhs.gov/alerts/hadisp/</a> and <a href="http://www.azsos.gov/public_services/Title_09/9-16.htm#Article_2">http://www.azsos.gov/public_services/Title_09/9-16.htm#Article_2</a>							
<b>California</b>	Registration	CA Business & Professional Codes, Division 2, Chapter 5.3, 2530.6 and Title 16, Division 13.4, Section 1399.154	<a href="http://www.slpab.ca.gov/">http://www.slpab.ca.gov/</a> <a href="http://www.slpab.ca.gov/board_activity/laws_regs/lawsregs.pdf">http://www.slpab.ca.gov/board_activity/laws_regs/lawsregs.pdf</a>	None	Not specified, audiologist reports supervision plan to Board	Determined by the Board, generally not more than 3	No, audiologist submits duties to be delegated to Board	No	Yes	No
<b>Colorado</b>	None (hearing aid trainee Yes)		<a href="http://www.dora.state.co.us/audiologists/aud/licensing.htm">http://www.dora.state.co.us/audiologists/aud/licensing.htm</a>							
<b>Connecticut</b>	None (SLP support personnel Yes)		<a href="http://www.ct.gov/dph/lib/dph/practitioner_licensing_and_investigations/pilis/speech/slp_stats.pdf">http://www.ct.gov/dph/lib/dph/practitioner_licensing_and_investigations/pilis/speech/slp_stats.pdf</a>							
<b>Delaware</b>	Registration	Title 24 Regulated Professions and Occupations 3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers	<a href="http://dpr.delaware.gov/boards/speechaudio/index.shtml">http://dpr.delaware.gov/boards/speechaudio/index.shtml</a> and	CAOHC or equivalent	Direct (on site)	N/A	Yes, other duties may be determined as appropriate with training & direct supervision	No	Yes	No

State Aud Support Pers Sprdsh

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<b>Florida</b>	Certification	Chpt 64B20-4 Florida Administrative Code	<a href="https://www.flrules.org/gateway/RuleNo.asp?ID=64B20-4.001">https://www.flrules.org/gateway/RuleNo.asp?ID=64B20-4.001</a> and <a href="https://www.flrules.org/gateway/RuleNo.asp?ID=64B20-4.002">https://www.flrules.org/gateway/RuleNo.asp?ID=64B20-4.002</a> and <a href="https://www.flrules.org/gateway/RuleNo.asp?ID=64B20-4.003">https://www.flrules.org/gateway/RuleNo.asp?ID=64B20-4.003</a> and <a href="https://www.flrules.org/gateway/RuleNo.asp?id=64B20-4.004">https://www.flrules.org/gateway/RuleNo.asp?id=64B20-4.004</a>	High school and on-the-job training	Some tasks require direct (onsite) supervision, other tasks allowed with indirect supervision	2 Full-time or 3 part-time	Yes (rule 4.003) includes basic testing without interpretation	Yes (testing those younger than 5 and developing treatment plans)	Yes	No
<b>Georgia</b>	Registration		<a href="http://sos.georgia.gov/plb/speech/">http://sos.georgia.gov/plb/speech/</a> and <a href="http://rules.sos.state.ga.us/docs/609/6/02.pdf">http://rules.sos.state.ga.us/docs/609/6/02.pdf</a>	2 yrs college or associates degree or Board approved technical school certification program or board approved audiology assistant training program. Specific training requirements listed.	Specific rules on supervision plan in regulations	2 if employed full time; 1 if audiologist is part time	Yes	Yes	Yes	Yes
<b>Hawaii</b>	None		<a href="http://hawaii.gov/dcca/areas/pvl/boards/speech/">http://hawaii.gov/dcca/areas/pvl/boards/speech/</a>							
<b>Idaho</b>	None (SLP Yes)		<a href="http://adm.idaho.gov/adminrules/rules/idapa24/2301.pdf">http://adm.idaho.gov/adminrules/rules/idapa24/2301.pdf</a>							
<b>Illinois</b>	None (SLP Yes)		<a href="http://www.idfpr.com/dpr/who/spch.asp">http://www.idfpr.com/dpr/who/spch.asp</a>							

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Indiana	None (SLP Yes)		<a href="http://www.in.gov/pla/speech.htm">http://www.in.gov/pla/speech.htm</a> and <a href="http://www.in.gov/pla/files/ISLPAB.2008_EDITIION(1).pdf">http://www.in.gov/pla/files/ISLPAB.2008_EDITIION(1).pdf</a>							
Iowa	Audiologist submits plan for assistant, assistant does Not appear to be registered, licensed or certified by the state	Iowa Administrative Code Professional Licensure Division (645) Chapter 300	<a href="http://www.idph.state.ia.us/licensure/board_home.asp?board=spa">http://www.idph.state.ia.us/licensure/board_home.asp?board=spa</a> and <a href="http://web.legis.state.ia.us/aspx/ACODocs/ruleList.aspx?pubDate=3-25-2009&amp;agency=645&amp;chapter=300">http://web.legis.state.ia.us/aspx/ACODocs/ruleList.aspx?pubDate=3-25-2009&amp;agency=645&amp;chapter=300</a>	1 college audiology course and 15 hours specific instruction or 75 clock hours of instruction / practicum experience	Supervisory plan must be filed	3 unless otherwise approved by board	No	No	Yes	
Kansas	Audiologist submits name, qualifications of assistant	Kansas administrative rules and regulations for Kansas speech-language pathologists and audiologists (section 28-61-8)	<a href="http://www.kdheks.gov/hoc/slpa.html">http://www.kdheks.gov/hoc/slpa.html</a> and <a href="http://www.kdheks.gov/hoc/downloads/currentregs.pdf">http://www.kdheks.gov/hoc/downloads/currentregs.pdf</a>	High school and audiologist conducted training	Direct supervision of 10% of client contact time	N/A	Yes	Yes	Yes	No
Kentucky	None (SLP Yes)		<a href="http://www.lrc.state.ky.us/KRS/334A00/020.PDF">http://www.lrc.state.ky.us/KRS/334A00/020.PDF</a>							
Louisiana	Provision for audiology aide; SLP has assistants		<a href="http://www.lbespa.org/forms_&amp;lit.htm">http://www.lbespa.org/forms_&amp;lit.htm</a> and <a href="http://www.lbespa.org/rules_2007.pdf">http://www.lbespa.org/rules_2007.pdf</a>							
Maine	None									
Maryland	None									

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<b>Mass.</b>	Licensed	260 CMR 10.00: Use And Supervision Of Speech-Language Pathology And Audiology Assistants	<a href="http://www.mass.gov/?pageID=ocasubtopic&amp;L=5&amp;L0=Home&amp;L1=Licenses&amp;L2=Division+of+Professional+Licensure+Boards&amp;L3=Board+of+Registration+in+Speech-Language+Pathology+and+Audiology&amp;L4=Statutes+and+Regulations&amp;sid=Eoca">http://www.mass.gov/?pageID=ocasubtopic&amp;L=5&amp;L0=Home&amp;L1=Licenses&amp;L2=Division+of+Professional+Licensure+Boards&amp;L3=Board+of+Registration+in+Speech-Language+Pathology+and+Audiology&amp;L4=Statutes+and+Regulations&amp;sid=Eoca</a>		10% direct plus 10% direct or indirect as a minimum.	3	Yes	Yes	No	No
<b>Michigan</b>	None									
<b>Minnesota</b>	None									
<b>Mississippi</b>	Registration	Title 15, Part 36, Subpart 60, Chapter 10, 109	<a href="http://www.msdh.ms.gov/msdhsite/_static/resources/571.pdf">http://www.msdh.ms.gov/msdhsite/_static/resources/571.pdf</a>	High school and audiologists 'instituted'	First 5 hours of contact with clients and then 20% direct observation of time with clients	3	Yes, very explicit	No	Yes	No
<b>Missouri</b>	Registration	Division 2150 Chapter 4 sections 4.100 - 4.130	<a href="http://www.pr.mo.gov/speech.asp">http://www.pr.mo.gov/speech.asp</a>	High school plus on-the-job training, a plan for which is filed with the Board	Direct, in view of the aide, for diagnostic and intervention activities, plus indirect supervision with the amount determined by the audiologist	N/A	Yes	Yes	No, only that the audiologist is responsible for the training	No

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Montana	Registration	Dept of Labor & Industry, Chapter 222, Board of Speech-Language Pathologists and Audiologists	<a href="http://bsd.dli.mt.gov/dli/bsd/license/bsd_boards/slp_board/pdf/slp_rules.pdf">http://bsd.dli.mt.gov/dli/bsd/license/bsd_boards/slp_board/pdf/slp_rules.pdf</a> <a href="http://bsd.dli.mt.gov/dli/bsd/license/bsd_boards/slp_board/board_page.asp">http://bsd.dli.mt.gov/dli/bsd/license/bsd_boards/slp_board/board_page.asp</a>	Three level of assistants, lowest, assistant III does Not hold bachelors in field	Depends on qaulifications of assistant and type of service; minimums range from 10 to 30% direct supervision	N/A	No	No	Submit supervision plan and functions assistant will be tasked with	Yes
Nebraska	Registration	Health and Human Services System, Title 172, Chapter 23	<a href="http://www.sos.state.ne.us/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-23.pdf">http://www.sos.state.ne.us/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-23.pdf</a> <a href="http://www.hhs.state.ne.us/crl/rcs/audio/audiology.htm">http://www.hhs.state.ne.us/crl/rcs/audio/audiology.htm</a>	High-school plus 12 or more hours	20% of treatment sessions	N/A	Broad categories are defined, mostly related to treatment	Yes	Submit supervision plan and methods of supervision	Yes, inservices
Nevada	None									
New Hampshire	None									
New Jersey	None									
New Mexico	None									
New York	None		<a href="http://www.op.nysed.gov/prof/sipa/speechfaq.htm">http://www.op.nysed.gov/prof/sipa/speechfaq.htm</a>							
North Carolina	Registration mentioned, may apply only to SLP. Recognizes certified technicians for OSHA testing		<a href="http://www.ncboeslpa.org/">http://www.ncboeslpa.org/</a>	Specified for SLP					No	
North Dakota	None									

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Ohio	Licensed	Title [47}XIVII Occupations, Chapt 47533.072 (Effective Date: 11-05-1992)	<a href="http://codes.ohio.gov/orc/4753.06">http://codes.ohio.gov/orc/4753.06</a> and <a href="http://codes.ohio.gov/orc/4753.072">http://codes.ohio.gov/orc/4753.072</a>	High School diploma	"Direct supervision" Supervisor must be present in the room or immediately available to provide assistance to aide	?	Yes	Yes	No	?
Oklahoma	"Authorized"	Title 59, chapter 39 Section 1601 subchapter 7	<a href="http://www.ok.gov/obespa/documents/2005Rules.pdf">http://www.ok.gov/obespa/documents/2005Rules.pdf</a>	Bachelors degree, with emphasis in communication sciences and disorders (if degree in other area, than 15 hrs of coursework in Comm Sci or Disorders)	Only at those times when the supervisor is available for on- site supervision, instruction, and assistanc	2	Yes	Yes	Completed 25 hrs of clinical observation by licensed audiologist prior to application	
Oregon	None (SLP Yes)	(ORS Chapter 681 for SLPA board rules)	<a href="http://www.leg.state.or.us/ors/681.html">http://www.leg.state.or.us/ors/681.html</a>							
Pennsylvania	Registration	Title 49, Chapter 45	<a href="http://www.pacode.com/secure/data/049/chapter45/chap45toc.html">http://www.pacode.com/secure/data/049/chapter45/chap45toc.html</a>	30 semester hours in speech-language or hearing (unless already supervised by audiologist since June 8, 1989)	Direct observation of assistant's performance in 25% of each clinical session	3	Yes	Yes	Yes- needs 20 hours in competency- based skill acquisition	
Puerto Rico	None									

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<b>Rhode Island</b>	Registered	R5-48-SPA	<a href="http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/5012.pdf">http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/5012.pdf</a>	high school diploma	Direct on-site observations of the 1 <sup>st</sup> 10 hrs of direct client contact; then 5% of all clinical sessions and indirect supervision of 5% of each 40 hrs	?	No	No	Receive intensive on-the-job training by the supervising licensed audiologist, in accordance with ASHA/AAA guidelines	No
<b>South Carolina</b>	None (SLP Yes)	Title 40 chapter 67	<a href="http://www.scstatehouse.gov/code/t40c067.htm">http://www.scstatehouse.gov/code/t40c067.htm</a>							
<b>South Dakota</b>	None									
<b>Tennessee</b>	Registration			hs						
<b>Texas</b>	Licensed	TX Occ Code Chapt 401	<a href="http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.401.htm">http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.401.htm</a>	Bachelors degree	Min of 2 hrs/week direct supervision	N/A	Yes	Yes	No	20 hrs every 2 years
<b>Utah</b>	Mentioned in state law, registration status unclear	Title 58, Chapter 41, Utah Code anNotated 1953, as amended Session Laws of Utah 2009	<a href="http://www.dopl.utah.gov/laws/58-41.pdf">http://www.dopl.utah.gov/laws/58-41.pdf</a>	Accredited high school or equivalent	Must have a current written utilization plan outlining the specific manner in which the aide will be employed and the manner in which the aide will be supervised.	3	No	Yes	No	No
<b>Vermont</b>	None									
<b>Virgin Islands</b>	None									

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Virginia	None	Chapter 26 of Title 54.1	<a href="http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC30-20-240">http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC30-20-240</a> and <a href="http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC30-20-240">http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC30-20-240</a>					Yes: cannot 'practice audiology'		
Washington West Virginia	None Registration	Chapter 30-32-10. Legislative Rules, Title 29, Series 1, 2, 3, and 4	<a href="http://www.wvspeechandaudiology.com/">http://www.wvspeechandaudiology.com/</a>	Associates or Bachelors degree from program designed to prepare student to be an audiology assistant	Direct supervision of 50% of time in 1st 90 days of employment and minium of 10% of subsequent contact	3	No	No	No. All training requirements apply including a supervised practicum, on-the- job training and demonstrated competence through out-come based measures.	5 hrs per year
Wisconsin	None, person is unlicensed but assistants statutorily limited	Rule 01-048	<a href="http://www.legis.state.wi.us/cr_final/01-043.pdf">http://www.legis.state.wi.us/cr_final/01-043.pdf</a>	Not specified	Direct supervision of 1st 10 hrs of direct client contact and a minimum of 10% of all subsequent client contact	5 (10 if in industrial setting)	Yes	Yes	No	No







**HEARING AID DISPENSERS PRACTICE COMMITTEE MEETING MINUTES**

**March 24, 2010**

Hotel Kabuki  
1625 Post Street  
San Francisco, CA 94115  
(415) 922-3200

**Committee Members Present**

Deane Manning, Hearing Aid Dispenser  
Sandra Danz, Hearing Aid Dispenser  
Rodney Diaz, M.D.  
Alison Grimes, Au.D., Audiologist  
Robert Green, Au.D. Audiologist

**Board Members Present**

Carol Murphy, M.A.  
Lisa O'Connor, M.A.

**Board Members Absent**

Monty Martin, M.A.

**Guests Present**

Tim Shannon, Hearing Health Care Providers California  
Tricia Hunter, Hearing Health Care Providers California  
Cindy Peffers, Hearing Health Care Providers California  
Jody Winzelberg, California Academy of Audiology  
Marcia Raggio, California Academy of Audiology  
Rebecca Bingea, University of California, San Francisco  
Art Sturm, Rexton Inc.  
Priya James  
Siamak Sani  
Sia Sani, World Hearing Organization Inc.

**Staff Present**

Annemarie Del Mugnaio, Executive Officer  
LaVonne Powell, Legal Counsel  
George Ritter, Legal Counsel  
Kathi Burns, Staff  
Cynthia Alameda, Staff  
Yvonne Crawford, Staff  
Debbie Newcomer, Staff  
Lori Pinson, Staff

**I. Call to Order**

Ms. Del Mugnaio called the meeting to order at 1:30 p.m.

**II. Introductions**

Those in attendance introduced themselves.

**III. Discussion Regarding Implementation of Legislation AB 1535 – Assembly Member Jones-  
Authorization for Audiologists to Dispense Hearing Aids/ Merger of the Speech-Language  
Pathology & Audiology Board and the Hearing Aid Dispensers Bureau- Discuss Necessary**

**Regulation Changes Pertaining to License Renewal Requirements & Continuing Professional Development- California Code of Regulation Section 1399.140-1399.143**

Ms. Del Mugnaio stated that since this meeting was the first meeting of the Hearing Aid Dispensers Committee and there is not yet an appointed Chair, she would facilitate the meeting discussion.

Ms. Del Mugnaio explained that Assembly Bill 1535, which merged the Hearing Aid Dispensers Bureau with the Speech-Language Pathology and Audiology Board, includes changes in the regulation of audiologists who are authorized to dispense hearing aids and, therefore, necessitates amendments to continuing education provisions for dispensing audiologists. She further stated that AB 1535 has also provided the newly merged Board the opportunity to examine and possibly revise the continuing education (CE) program for hearing aid dispensers. Ms. Del Mugnaio explained that members of the professional community, as well as experienced hearing aid dispensers' staff, have raised issues regarding the rigor of the CE requirements and the current approval process. Ms. Del Mugnaio outlined the suggestions brought before her as follows:

- Elimination of the individual course approval process but retain approval for CE providers.
- Restrict the number of hours a licensee may accumulate in hearing aid courses that are provided by a hearing aid manufacturer where the content focuses on the marketing of a particular hearing aid product.
- Provide specific definition for a "related" course where the topic may not be discipline-specific but has some direct relationship to or impact on the services provided by a licensee.

Ms. Del Mugnaio referenced proposed regulatory amendments to the hearing aid dispensers CE provision, as included in the meeting packets, and explained that the amendments were drafted by the former Bureau. She stated that the Board has an opportunity to move forward with the regulatory amendments as presented and may consider further amendments based on the discussion today. She stated that the Committee may wish to review the continuing professional development requirements for speech-language pathologists and audiologists, as there are specific definitions for "related" course content and "indirect" course content, and where there are restrictions on the number of hours that a licensee may accumulate in said courses to preserve a core number of required hours in the respective disciplines.

Ms. Grimes commented that she agrees the course approval process is timely and may be burdensome on staff, but is concerned about placing all of the onerous on the licensee to decide which courses are appropriate. She stated that she is concerned about the Board becoming inundated with CE appeals.

Mr. Manning stated that eliminating the course approval process may result in a greater staff burden during the CE audit process.

Ms. Del Mugnaio explained that the regulations must be drafted in a manner that provides greater specificity if the Board chooses to eliminate course approval. She stated that it would be the Board's responsibility to carefully examine the CE provider application and operational plan and also adequately educate its licensing population about the CE expectations.

Mr. Manning inquired whether a licensee or provider could request the Board to review a course if the content is questionable.

Ms. Del Mugnaio confirmed that Board staff routinely reviews courses upon request by a provider or a licensee to ensure the content complies with the continuing professional development regulations.

Mr. Manning explained that existing hearing aid CE is comprised of “new” and “old” course categories or “optional” and “related” categories.

Ms. Del Mugnaio stated that there needs to be uniformity in course definitions so that the dispensing licensing population is clear as to the CE requirements and content limitations. She stated that the staff will continue to work on a regulatory proposal that incorporates the suggestions from the professional community and the amendments developed by the former Bureau, should the Committee choose to recommend pursuing the CE changes to the full Board.

Tricia Hunter representing the Hearing Health Care Providers (HHP) stated that HHP is supportive of limiting the number of manufacturer hours and placing a limit on the number of self-study hours that licensees may apply toward license renewal requirements. She indicated that HHP is also supportive of eliminating the course approval requirement and instead have a provider approval system where an operational plan of course offerings and objectives are submitted with the provider application. Ms. Hunter requested that the Committee consider expanding the number of core hours to twelve (12) hours per year and allow for more related coursework in areas such as audiological assessments.

Ms. Grimes requested that there be further clarity in the definition of self-study learning as there is a difference between the learning experience for interactive on-line courses and on-demand courses.

Ms. Del Mugnaio stated that there is clarification in the Board’s continuing professional development regulations defining self-study as independent learning where a licensee is not interacting with an instructor or other course participants.

Ms. Del Mugnaio reiterated the suggested CE amendments as presented before the Committee:

- Eliminating the course approval process for hearing aid dispensers’ courses and change the approval process to a CE provider approval.
- Increase the number of CE hours a hearing aid dispenser must obtain for license renewal from 9 hours to 12 hours per year.
- Limit the number of self-study hours a licensee may obtain for the purposes of license renewal. Include a definition of self-study as an independent learning experience that does not include live/interactive on-line courses.
- Restrict the number of hours a licensee may accumulate in hearing aid courses that are provided by a hearing aid manufacturer where the content focuses on the marketing of a particular hearing aid product.

**M/S/C: Grimes/Manning**

**The Committee voted to recommend to the full Board that a regulatory proposal be developed by Ms. Del Mugnaio incorporating the continuing education changes for hearing aid dispensers as discussed and to present the regulatory amendments to the full Board at the next scheduled Board meeting.**

#### **IV. Report and Status Update on Pending Regulations and Licensing Issues Pertaining to the Practice of Hearing Aid Dispensing**

Ms. Del Mugnaio stated that the following practice issues have been long-standing professional issues before the former Hearing Aid Dispensers Bureau and require either legislative action or regulatory amendments. She referenced a background memorandum and related statutory provision included in the meeting packets as prepared by Yvonne Crawford.

## **A. Proposal Regarding Establishment Registration**

Ms. Del Mugnaio explained that businesses where hearing aids are sold are not regulated by the Board to sell hearing aids and that only the employees who are licensed hearing aid dispensers are under the Board's purview. She stated that the absence of the business regulation or monitoring has created problems for the Bureau in the past in terms of violations regarding advertising provisions and other business practices in which the licensee ("employee") has no control over the business's advertising or record-keeping practices, yet the licensee is notified of the violation because of the employment relationship.

Ms. Tricia Hunter stated that she was involved in many of the discussions under the former Bureau surrounding the lack of regulation for hearing aid businesses and agreed that it has been a problem in terms of enforcing advertising provisions and record-retention requirements, especially when the businesses close and do not provide for any record repository.

Mr. Manning inquired whether the registration of businesses is common in other regulated industries.

Ms. Powell indicated that Pharmacy may have some applicable laws for reference. She also cautioned that the requirement for businesses to register with the Board may appear to be non-controversial for the hearing aid profession and the Board, but in terms of large business entities and corporations, such entities may be opposed to any oversight by the Board.

Ms. Hunter stated that HHP will consider sponsoring legislation regarding the registration of hearing aid dispenser business establishments and will work with the Board regarding appropriate language.

## **B. Proposal to Clarify Song-Beverly Consumer Warranty Act (California Civil Code Section 1793.02)**

Ms. Del Mugnaio stated that the Song-Beverly Consumer Warranty Act has been difficult to enforce for many years due to significant ambiguity in the provisions, as outlined in the background document in the meeting packets. She provided an overview of current law and the major issues:

- Allows for the return of an assistive device within 30 days of actual receipt or completion of fitting, whichever occurs later, if the device is not specifically fit for the particular needs of the buyer. What constitutes "completion of the fitting"?
- Allows the seller the option to adjust or replace the device or provide a complete refund of the total amount paid; however, if the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid and shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and promptly cancel or cause to be cancelled all contracts. May the provider retain any of the cost related to the fitting and selling of the hearing aid (e.g., earmold fees, batteries, or hearing test)?
- Allows for tolling of the 30 days, which allows the 30-day period to be stopped and restarted. At what point does the tolling end?
- Requires a licensee to deliver to the purchaser, upon the consummation of a sale of a hearing aid, a written receipt, but does not require additional receipts for adjustments, replacements, or repairs.

Ms. Crawford stated that many years ago the Song-Beverly Act provisions were interpreted to allow a hearing aid dispenser to retain a nominal fee of approximately \$200 for services related to fitting the device. However, she stated that a subsequent legal opinion from the Office of the Attorney General concluded that all monies must be refunded and that the Song-Beverly Act did not authorize the provider to retain any portion of the fees paid toward the fitting and dispensing of the hearing aid.

The Committee agreed that the provisions regarding the Song-Beverly Act need to be clarified in order to be uniformly enforced.

Ms. Del Mugnaio requested legal counsel, Ms. Powell, to provide the Board guidance in terms of drafting statutory provisions that would further define and/or amend provisions of the Song-Beverly Act.

Ms. Powell agreed to work with Board member Mr. Green and Ms. Del Mugnaio on the legal framework.

Mr. Manning stated that during previous conversations with the Bureau, there was some discussion about removing hearing aids from the Song-Beverly Act and rewriting separate warranty provisions under the Business and Professions Code.

Ms. Cindy Peffers requested that the provisions regarding the delivery of a receipt to the consumer be drafted in a manner that is not burdensome in terms of time and expense for the provider.

The Committee discussed reasonable and customary patient record documentation, including receipts for hearing aid devices.

### **C. Proposed Amendment of Business and Professions Code Section 3365.5 – Conditions for Referral**

Ms. Del Mugnaio explained that Business and Professions Code Section 3365.5 sets out specified health conditions that, when identified by a hearing aid dispenser may exist for a potential hearing aid user, either during an observation or on the basis of information furnished by the hearing aid user, requires the hearing aid dispenser to provide a written recommendation to the hearing aid user that the individual consult with a physician (preferably one who specializes in disease of the ear), about the suspected health conditions. Section 3365.5 is intended to mirror the provisions of Section 801.420 of Title 21 of the Code of Federal Regulations. However, Section 3365.5 lists only six of the eight conditions contained in the federal regulations and, as such, California laws should be amended accordingly. She stated that the two conditions that are not provided for in Section 3365.5 are: 1) visible evidence of significant cerumen accumulation or a foreign body in the ear canal and, 2) pain or discomfort in the ear.

The Committee discussed whether the changes to the conditions for referral should be codified in statute or regulation or whether the language should merely reference the Code of Federal Regulations.

**M/S/C: Grimes/Green**

**The Committee voted to recommend to the full Board that a statutory change to Business and Professions Code Section 3365.5 be pursued by the Board as an omnibus measure to incorporate the mandatory conditions for referral provided for in Section 801.420 of Title 21 of the Code of Federal Regulations.**

Ms. Del Mugnaio adjourned the meeting at 2:42 p.m.



**AUDIOLOGY PRACTICE COMMITTEE MEETING MINUTES**

**March 25, 2010**

Hotel Kabuki  
1625 Post Street  
San Francisco, CA 94115  
(415) 922-3200

**Committee Members Present**

Alison Grimes, Chair AuD., Audiologist  
Robert Green, Au.D. Audiologist  
Sandra Danz, Hearing Aid Dispenser

**Board Members Present**

Carol Murphy, M.A.  
Lisa O'Connor, M.A.  
Rodney Diaz, M.D.  
Deane Manning, Hearing Aid Dispenser

**Board Members Absent**

Monty Martin, M.A.

**Guests Present**

Tim Shannon, Hearing Health Care Providers California  
Susan Kidwell, San Joaquin Delta Community College  
Tricia Hunter, Hearing Health Care Providers California  
Cindy Peffers, Hearing Health Care Providers California  
Jody Winzelberg, California Academy of Audiology  
Marcia Raggio, California Academy of Audiology  
Rebecca Binge, University of California, San Francisco  
Kimberly Kirchmeyer, Deputy Director of Board Relations, Department of Consumer Affairs  
Art Sturm, Rexton Inc.  
Priya James  
Siamak Sani  
Sia Sani, World Hearing Organization Inc.

**Staff Present**

Annemarie Del Mugnaio, Executive Officer  
LaVonne Powell, Legal Counsel  
George Ritter, Legal Counsel  
Kathi Burns, Staff  
Cynthia Alameda, Staff  
Yvonne Crawford, Staff  
Debbie Newcomer, Staff  
Lori Pinson, Staff

**I. Call to Order**

Chairperson Grimes called the meeting to order at 9:15 a.m.

**II. Introductions**

Those in attendance introduced themselves.

**III. Discussion Regarding Implementation of Legislation Passed in 2009**

**A. SB 821- Omnibus Legislation – Senator Negrete McLeod- Entry-Level Licensing Standards for Audiologists (Doctorate Education) & Amendments to Audiology Aide Supervision Standards- Discuss Regulatory Amendments for Audiology Aides**

Ms. Del Mugnaio stated that SB 821 was the health omnibus bill and was signed by the Governor and became effective January 1, 2010. She stated SB 821 contained several clean-up and technical provisions for many healing arts boards and included provisions to raise the entry-level educational standard for audiology to the doctorate training level, in addition to making conforming changes to the required professional experience (RPE) provisions regarding audiology doctoral students completing the requisite 4<sup>th</sup> year externship in another state. Ms. Del Mugnaio reported that SB 821 also includes language to delete the “direct” supervision requirement for audiology aides, providing the Board the flexibility to establish appropriate supervision parameters for audiology aides by regulation. She stated that the Audiology Practice Committee should continue the work started at previous meetings to further define by regulation the supervision standards or parameters appropriate for audiology aides. Ms. Del Mugnaio suggested the Committee review the supervision regulations for speech-language pathology assistants and consider defining the levels of supervision, i.e., immediate, direct, and indirect.

Chairperson Grimes provided background on the position statement of the American Academy of Audiology regarding audiology support personnel. She stated that not all states regulate audiology support personnel and that those states where some form of oversight is enforced, the education, training, and rules regarding audiology support personnel vary to a large degree. Chairperson Grimes stated that she believes that, from a consumer protection standpoint, regulation of audiology support personnel in terms of the supervision required and assignment of appropriate tasks is imperative. She indicated that she is aware of individuals in California who use unregistered personnel to assist with audiology services either because they are unaware of the requirements for registration or because they believe that the tasks assigned are not technically audiology services. Chairperson Grimes stated that the Board has the enormous task of educating its professional population about the appropriate use of audiology aides in California. She requested that the Committee research the audiology support personnel provisions of other states, the American Academy of Audiology’s recent position statement, and the draft regulations of the Board, and provide suggestions to Ms. Del Mugnaio regarding the framework of the Board’s proposed audiology aide regulations, e.g., supervision terms, scope of responsibility, prohibited tasks, etc. Chairperson Grimes also requested that the survey responses the Board collected from its licensing population regarding the use and supervision of audiology aides be provided to the new members.

The Committee discussed the broad terminology of the statute regarding the oversight of audiology aides and it was concluded that much more specificity be included in regulations.

Cindy Peffers indicated that HHP has concerns that audiology support personnel may be performing tasks associated with the fitting and selling of a hearing aid, which requires a separate authorization.

Chairperson Grimes referenced a legal opinion as prepared by George Ritter, concluding that the “fitting” of a hearing aid is within the scope of practice of an audiologist and, as such, audiology aides under supervision may legally perform hearing aid fitting services; however, the selling of a hearing aid is not a task that can be delegated to an audiology aide.

Ms. Del Mugnaio referenced Business and Professions Code Section 3351.3 of the Hearing Aid Dispensers Practice Act, which excludes individuals from the hearing aid licensure requirements

who are supervised by audiologists in conducting fitting procedures, as long as the individuals are not involved directly or indirectly in the sale of hearing aids.

Ms. Peffers indicated that the provisions regarding such exclusions may need to be clarified.

Ms. Del Mugnaio requested that the Committee members submit their regulatory suggestions directly to her and she will forward the information to Chairperson Grimes for further drafting.

**B. AB 1535 – Assembly Member Jones- Authorization for Audiologists to Dispense Hearing Aids/ Merger of the Speech-Language Pathology & Audiology Board and the Hearing Aid Dispensers Bureau- Discuss Necessary Regulation Changes for Dispensing Audiologists Pertaining to License Renewal Requirements, Fees, and Continuing Professional Development**

Ms. Del Mugnaio stated that further information regarding necessary amendments to the provisions adopted under Assembly Bill 1535 will be discussed during the full Board meeting under agenda item X.A. However, the purpose of the discussion before the Committee is to define the renewal cycle and associated continuing professional development (CPD) for dispensing audiologists. She indicated that the time frame for a license renewal is not defined in statute for licensees of the Board, but instead, provided for in regulation. Ms. Del Mugnaio indicated that the renewal cycle for a dispensing audiologist should be defined as a one-year renewal with the specified \$280 renewal fee in order to provide for a sufficient revenue stream for operating expenses. She also stated that the CPD for dispensing audiologists must be defined in order to coincide with the revised renewal cycle and, most importantly, to reflect the appropriate amount of CPD in hearing aid dispensing courses required of a dispensing audiologist.

Ms. Del Mugnaio referenced the proposed regulations included in the meeting packet and indicated that the language reflected under Section 1399.157 (c) regarding the renewal cycle for dispensing audiologists should read “annual” renewal cycle, not biennial. She also requested that the Committee review the new language under Section 1399.160.3 (e) regarding specification of a number of CPD hours that dispensing audiologists must take in hearing aid related courses where the content is focused on advancements in hearing aid technology and not the marketing of a particular device from a hearing aid manufacturer. Ms. Del Mugnaio stated that the proposed language specifies that 50% of the required CPD hours for a dispensing audiologist must be in hearing aid related courses. However, the language does not provide for a stipulation of the remainder 50% of the requisite CPD hours.

Jody Winzelberg commented that the proposed language in Section 1399.160.3 (e) impacts the CPD requirements of dispensing audiologists in terms of specifying a number of hours in hearing aid related coursework and but does not include specific language regarding the remaining 50% of the requisite CPD hours and thus may be confusing.

The Committee discussed language that would require the remaining 50% of the CPD hours required of dispensing audiologists to be in courses where the content is directly related to the practice of audiology and does not include courses sponsored by hearing aid manufacturers.

Chairperson Grimes commented that an educational course related to hearing aids should focus on the best practices in hearing aid selection, fitting, verification, and validation and not the marketing or intended “use” of a particular device.

Tricia Hunter indicated that HHP is supportive of restricting the number of hours hearing aid dispensers may obtain in hearing aid courses where the course content focuses on the marketing or sale of a particular device.

The Committee discussed at length the differences between hearing aid dispensing courses designed to market a particular product and those where the content provides continuing education in advancements in hearing aid technology and the intended benefits of such advancement to the hearing impaired population.

The Committee determined that the proposed changes to the renewal cycle and CPD requirements for dispensing audiologists should include:

- An annual renewal cycle with a \$280 renewal fee.
- A requirement for twelve (12) hours of CPD to be completed annually upon license renewal.
- A requirement that 50% of the CPD for a dispensing audiologist shall be obtained from hearing aid related courses but shall not be from courses where the content focuses on equipment, devices, or other products of a particular manufacturer
- Specifications regarding the remaining 50% in terms of clarifying the remaining hours as directly related to the practice of audiology including hearing aids.

**M/S/C Diaz/Danz**

**The Committee voted to recommend to the full Board the approval of the revised proposed regulations for California Code of Regulations Sections 1399.157 (Fees) and 1399.160.3 regarding the continuing professional development requirements for dispensing audiologists.**

**IV. Update on the Status of the Correspondence with Department of Developmental Services Regarding the Need for Further Services Provided by Regional Centers for Deaf/Heard of Hearing Children**

Chairperson Grimes referenced a letter dated September 5, 2009, included in the meeting packets, directed to the Department of Developmental Services (DDS) from the Board regarding the Board's concerns for the provision of services offered by the Regional Centers to infants and toddlers who are deaf or hard of hearing. She stated that the letter addressed the lack of appropriate providers and services afforded by the Regional Centers to infants and toddlers with profound hearing loss.

Chairperson Grimes stated that she and Ms. O'Connor participated in a telephone conference call with representatives of DDS in early December to discuss the issues outlined in the letter and was under the impression that DDS would be sending follow-up correspondence to the Board confirming the telephone discussion and outlining the identified proposed solutions. She stated that, to date, the Board has not received follow-up correspondence.

Jody Winzelberg stated that to her knowledge there is no specific requirement in California for children who qualify for regional center services to have a diagnostic audiological evaluation as part of their initial assessment. She stated that this presents a significant problem when these children enter the public school system.

Chairperson Grimes stated that there is a best practices document, the Joint Committee on Infant Hearing (JCIH) 2007, which states that any child who is at risk for hearing impairment, even if the child passes the newborn hearing screening, should be reassessed by an audiologist between the ages of 24-30 months. She commented that the regional center is likely not mandated to comply with the JCIH best practices document. She stated that DDS is aware that several organizations and state departments are concerned about the issues surrounding services to Deaf/Hard of Hearing children, including the

National Initiative for Children's Health Care Quality (NICHQ), the Department of Education, and the Department of Health Care Services Newborn Hearing Screening Program.

Chairperson Grimes stated that she or Ms. O'Connor will follow-up with DDS by way of Board correspondence.

Chairperson Grimes adjourned the meeting at 10:24 a.m.

**SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID  
DISPENSERS BOARD**

2005 Evergreen Street, Suite 2100, SACRAMENTO, CA 95815  
P (916) 263-2666 F (916) 263-2668 | www.slpab.ca.gov



**FULL BOARD MEETING MINUTES**

**March 24-25, 2010**

Hotel Kabuki  
1625 Post Street  
San Francisco, CA 94115  
(415) 922-3200

**Board Members Present**

Lisa O'Connor, M.A., Chairperson  
Alison Grimes, Chair Au.D., Vice Chairperson  
Sandra Danz, Hearing Aid Dispenser  
Deane Manning, Hearing Aid Dispenser  
Carol Murphy, M.A.  
Rodney Diaz, M.D.  
Robert Green, AuD.

**Staff Present**

Annemarie Del Mugnaio, Executive Officer  
LaVonne Powell, Legal Counsel  
George Ritter, Legal Counsel  
Kathi Burns, Staff  
Cynthia Alameda, Staff  
Yvonne Crawford, Staff  
Debbie Newcomer, Staff  
Lori Pinson, Staff

**Board Members Absent**

Monty Martin, M.A.

**Guests Present**

Tim Shannon, Hearing Health Care Providers California  
Susan Kidwell, San Joaquin Delta Community College  
Tricia Hunter, Hearing Health Care Providers California  
Cindy Peffers, Hearing Health Care Providers California  
Jody Winzelberg, California Academy of Audiology  
Marcia Raggio, California Academy of Audiology  
Rebecca Bingea, University of California, San Francisco  
Kimberly Kirchmeyer, Deputy Director of Board Relations, Department of Consumer Affairs  
Art Sturm, Rexton Inc.  
Priya James  
Siamak Sani  
Sia Sani, World Hearing Organization Inc.

**I. Call to Order**

Chairperson O'Connor called the meeting to order at 3:00 p.m.

**II. Introductions**

Those in attendance introduced themselves.

**III. Election of Officers and Committee Members**

Lisa O'Connor was elected Chairperson by a unanimous vote of the Board.

Alison Grimes was voted Vice Chairperson by a unanimous vote of the Board.

Chairperson O'Connor appointed members to the following Committees:

Audiology Practice Committee: Chair Alison Grimes, Robert Green, Sandra Danz, and Rodney Diaz

Speech-Language Pathology Practice Committee: Chair Carol Murphy, Lisa O'Connor, Marty Martin, and Rodney Diaz

#### **IV. Board Member Orientation – Ethical Decision Making for Board Members- LaVonne Powell, Legal Counsel**

LaVonne Powell addressed the Board and provided an abbreviated board member orientation where she summarized the provisions of the Open Meetings Act and reviewed situations where the Board members may encounter potential conflicts of interest. She explained the acts of disqualification and abstention and provided applicable examples where either act of removing a board member from participation in a vote of the Board may be necessary. Ms. Powell also impressed upon the Board the importance of confidentiality in all closed session matters before the Board.

#### **V. Approval of Meeting Minutes for November 4-5, 2009 Audiology Practice Committee Meeting, Speech-Language Pathology Practice Committee Meeting, & Full Board Meeting Minutes**

The Board discussed minor grammatical edits to the practice committee and full board meeting minutes.

**M/S/C: Grimes/Murphy**

**The Board voted to approve the meeting minutes as amended.**

#### **IV. Closed Session (pursuant to Government Code Subsections (c)(3)- Proposed Decisions/Stipulations/ Other APA Enforcement Actions**

The Board convened into closed session at 3:45 p.m. to deliberate the following proposed stipulated settlements

- A. Proposed Stipulation and Settlement of Probation In the Matter of the Accusation Against Mika Inouye-Winkle, AU 1873**
- B. Proposed Stipulation and Settlement of Probation In the Matter of the Accusation Against Molly Stuckey, SP 14040**

The Board reconvened into open session at 4:11 p.m.

#### **V. Executive Officer's Report**

- A. Budget Update**

Annemarie Del Mugnaio reviewed the two budget projection reports included in the meeting packets, one for the speech-language pathology and audiology budget and the other for the hearing aid dispenser and dispensing audiologist budget. She indicated that the budget projections were based on expenditure reports through January 31, 2010. Ms. Del Mugnaio explained that the Board must manage the budgets and funds separately for speech-language pathology/audiology and the hearing aid dispensing/dispensing audiology programs pursuant to the provisions of Assembly Bill

1535. She indicated that the dispensing fund must realize additional revenue within the next fiscal year in order to remain solvent and, as such, will be pursuing a regulatory change to reflect an annual renewal cycle for dispensing audiologists with the associated fee of \$280. Ms. Del Mugnaio explained that two major program expenses for the hearing aid dispensers' budget are the Division of Investigation costs, which is the unit that provides investigatory services for the Board's enforcement program, and the Examination program, which funds the administration of the written and practical hearing aid dispenser examination. She suggested that there will likely be some cost savings to the hearing aid dispensers' budget now that the entity is merged with the Board, as many program functions may be handled in-house as opposed to paying centralized units within the Department to provide such services as complaint mediation, mail processing, and call center assistance. Ms. Del Mugnaio explained that the Board has been approved for additional staff to serve as a non-sworn investigator for the Board. She stated that this position will provide the Board with a dedicated investigator to handle many of its investigation needs and should prove to be more cost effective than out-sourcing all of its investigation work to the Division of Investigation. Ms. Del Mugnaio provided historical information on prior fee increases for the hearing aid dispensers' program and indicated that the last renewal fee increase occurred in 1993 when annual renewal fees were raised from \$205 to \$280 and the more recent examination fee increase in 1996, which raised examination application fees from \$125 to \$285. Ms. Del Mugnaio reported that the current fees for hearing aid dispensers and dispensing audiologists are at the statutory maximum.

Tricia Hunter expressed the Hearing Health Care Providers (HHP) of California's support in terms of the Board stabilizing its fiscal reserve and operating revenue.

**B. Status of Proposed Regulations**

**1. Review Final Statement of Reasons and Language for Clean-up Package – Continuing Professional Development Amendments Related to Supervision Requirements and Board Approved Institution Regulations (California Code of Regulations Sections -1399.152 (e), 1399.153.3 & 1399.160.4)**

Ms. Del Mugnaio reported that the final rulemaking file was submitted to the Office of Administrative Law (OAL) on March 17, 2010, where the OAL has thirty (30) business days to make a determination regarding the regulatory proposal. She indicated she would report on the outcome of the rulemaking file at the next meeting.

**2. License Renewal Requirements- Retroactive Fingerprinting – (Adopt California Code of Regulations Section- 1399.157.3)**

Ms. Del Mugnaio explained that the new provisions will enable the Board to secure fingerprints and criminal history information on licensees who do not have a retrievable Live Scan record with the Department of Justice (DOJ). She stated that when the DOJ transferred its records from wet-print scanning to Live Scan, some of the records did not accurately transfer and, as such, some records are no longer accessible in the DOJ database. Ms. Del Mugnaio explained that the regulatory language in the packet would authorize the Board to require retroactive fingerprinting of identified licensees within a specified timeframe and would provide for administrative penalties for non-compliance. She stated that the previous Board had approved the regulatory proposal; however, since the Board was now merged and under new governance, it was necessary for the new Board to review and adopt the language for both the speech-language pathology and audiology and hearing aid dispenser code sections.

**M/S/C: Grimes/Murphy**

**The Board voted to approve the regulatory proposal adding Sections 1399.128-1399.128.1 and 1399.157.3-1399.157.4 regarding fingerprint requirements for licensees.**

**3. Consider Regulatory Proposal Regarding the Audiologist's Role in Cochlear Implant Fitting and Mapping (California Code of Regulations Section 1399.150.2- Definitions)**

Ms. Del Mugnaio explained that the regulatory amendment included in the meeting packets defining the audiologist's role in cochlear implant fitting and mapping was approved by the previous Board; however, action on the regulation was delayed due to merger implementation projects. She requested the Board to review and adopt the regulatory proposal and approve the filing of the regulatory notice.

**M/S/C: Grimes/Diaz**

**The Board voted to approve the regulatory proposal Section 1399.150.2 defining the audiologist's role in cochlear implant fitting and mapping.**

**C. 2010 Conference Schedule**

Ms. Del Mugnaio provided an overview of the conference travel schedule and indicated that she or another member of the Board would be speaking at the following conferences:

- American Academy of Audiology Conference- State Leaders Workshop- April 14-18, San Diego
- California Speech-Language-Hearing Association Conference – April 18, 2010- Monterey
- Hearing Health Care Providers of CA Conference – May 13-15, 2010- Anaheim
- California Academy of Audiology Conference - September 30-October 2, 2010- San Francisco

Chairperson O'Connor adjourned the meeting at 4:45 p.m.

**March 25, 2010 Continuation of the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting:**

Chairperson O'Connor called the continuation of the full board meeting to order at 10:30 a.m.

Those in attendance introduced themselves.

**VI. Status of Audit Response from San Joaquin Delta Speech-Language Pathology Assistant Program**

Chairperson O'Connor indicated that the Board had requested San Joaquin Delta respond to several outstanding compliance or deficiency issues identified by the Board during a site visit of the San Joaquin Delta Speech-Language Pathology Assistant (SLPA) Program, both at the main campus and the Santa Rosa satellite campus. She stated that she carefully reviewed the audit response letter prepared by Susan Kidwell, SLPA Training Program Director, and found the letter and its attachments adequately responded to the Board's identified concerns. Chairperson O'Connor acknowledged Ms. Kidwell's tireless efforts in improving the administrative oversight of the SLPA Program at San Joaquin Delta and thanked her for thoroughly addressing the audit deficiencies.

**M/S/C: Murphy/Grimes**

**The Board approved the San Joaquin Delta audit response letter dated February 3, 2010, and confirmed that all deficiencies noted in the site review audit and subsequent communications of the Board and the San Joaquin Delta Program had been cured.**

## **VII. Department of Consumer Affairs Director's Report**

Ms. Del Mugnaio introduced Kimberly Kirchmeyer, Deputy Director of Board Relations Department of Consumer Affairs, who conducted a ceremonial swearing-in of the newly appointment board members.

### **A. Enforcement Reform – Consumer Protection Enforcement Initiative (CPEI)/ Senate Bill 1111**

Ms. Kirchmeyer addressed the Board regarding the Department's CPEI project and stated that it is Director Stiger's mission to improve the overall efficiency and accountability in the boards/bureaus enforcement efforts and is dedicated to providing the boards and bureaus the necessary tools to that end. Ms. Kirchmeyer outlined the Department's CPEI project plan:

- Administrative Changes –Developing best practices for complaint/enforcement case handling; introduced the Department's Enforcement Academy to train all enforcement personnel in such best practice models; created a new Deputy Director of Enforcement Compliance to oversee all board/bureau enforcement programs; developing performance agreements with other state departments that provide enforcement services to the Department's boards/bureaus.
- Information Technology Improvements/Resources- Securing new enforcement positions for boards/bureaus; researching and procuring a new integrated licensing/enforcement data system to replace an antiquated database with limited functionality.
- Legislative Changes – Senate Bill 1111- Major statutory changes, including suspending a license in a timely manner for a specified cause, removal of any Gag Clause in civil settlements, and a delegation of authority for an executive officer to adopt a default decision.

Ms. Kirchmeyer indicated that SB 1111 was authored by Senator Negrete McLeod of the Senate Business Professions and Economic Development Committee and that SB 1111 was set for hearing on April 12, 2010. Ms. Kirchmeyer reported that several amendments to SB 1111 would be forthcoming to address concerns expressed by both health care boards and professional associations. Ms. Kirchmeyer outlined the following amendments before the Board:

- Strikes language regarding the requirement for a licensee's address of record to be posted on a board's website.
- Cost recovery provisions of the bill specify that "reasonable costs" must be paid by the subject licensee as opposed to the current language which reflects "actual costs." A definition of "reasonable costs" will be included in the bill.
- Citation and fine appeals will be presided over by the board and will not include the executive officer as a voting member.
- Removes the option for allied health boards to utilize the services of the Medical Board of California investigators due to possible conflicts and resource limitations.
- Includes discretionary language that a board may delegate to the executive officer the authority to adopt default decisions independent of the Board.
- Amendments regarding fines levied against licensees who fail to provide patient records to the Board upon request shall only apply to practitioners who have access and control over said records.
- Requires all boards to report to the National Practitioner Data Bank.

- Provisions are included that licensees who are suspended in another state may also be subject to suspension in California.
- Mandates that licensees inform the courts of their license status.
- Removes language increasing the statutory licensing fees for all healing arts boards.
- Removes the requirement that all allied health boards utilize the Vertical Enforcement Model as employed by the Medical Board and clarifies that use of such a model is optional.

Ms. Kirchmeyer stated that, while the current CPEI plan is a reactive approach to addressing noncompliance, the Department is also examining proactive measures to help prevent incompetence or negligence by health care providers, such as continuing competency requirements either in the form of continuing education, actual clinical training, or supplemental examinations.

**B. Senate Bill 1441 – Uniform Standards Regarding Substance-Abusing Healing Arts Licensees and Related Amendments to the Board’s Disciplinary Guidelines**

Ms. Kirchmeyer explained that the Department commissioned a Substance Abuse Coordination Committee, comprised of the healing arts boards’ executive officers, the Director of the Department, and other individuals who specialize in substance abuse recovery, to develop and adopt uniform standards regarding substance-abusing healing arts licensees. She stated that the sixteen (16) standards provide a framework for boards to enforce specified restrictions on a subject licensee and defines the terms for treatment and rehabilitation. Ms. Kirchmeyer explained that for boards that do not have an in-house diversion program, the uniform standards should be incorporated into the boards’ disciplinary guidelines and applied in cases where a licensee has a confirmed substance abuse issue. She thanked Ms. Del Mugnaio for her work drafting the new disciplinary guidelines according to the uniform standards and explained that Ms. Del Mugnaio and Ms. Powell developed a model for other boards to use in amending their specific disciplinary guidelines.

Ms. Del Mugnaio referenced the amended disciplinary guidelines in the board packet and explained that the guidelines are still a work in progress, as the terms specific to hearing aid dispenser licensees must be incorporated into the new document. She indicated that an amended version of the disciplinary guidelines would be presented at the next meeting and would serve as a regulatory proposal for the Board’s consideration.

Ms. Kirchmeyer stated that legislative changes are being pursued by the Department to provide statutory authority for a few of the identified uniform standards, including a provision for a verified drug screen, automatic suspension of a licensee based on a confirmed positive drug screen, and provisions for an independent audit of a board’s diversion program. Ms. Kirchmeyer urged the Board to pursue changes to its disciplinary guidelines through the regulatory process and to incorporate provisions of the uniform standards in stipulated settlements as appropriate. She requested the Board discuss the regulatory proposal at its future meetings and track the forthcoming legislation.

**C. The Governor’s Executive Order S-01-10**

Ms. Kirchmeyer stated that the Governor issued Executive Order S-01-10 on January 8, 2010, which requires state departments to achieve a five percent (5%) salary savings in Personnel Services by July 1, 2010. She explained that this directive required state agencies, including boards and bureaus, to reduce their personnel service costs by five percent (5%).

Ms. Del Mugnaio explained that the Board submitted its plan to reduce its personnel service costs by five percent (5%) to the Department earlier in the month and stated that she was able to secure the reduction without layoffs through attrition of staff and reducing temporary help expenses.

Ms. Kirchmeyer stated that a related directive from the Governor requested boards and bureaus to utilize state facilities or no-cost facilities for conducting public meetings and hearings.

**VIII. Update from Board Member Lisa O'Connor  
Status Update on California Commission on Teacher Credentialing Special Education  
Credentialing – Communication Development Specialist- Proposed Regulations Title 5  
California Code of Regulations Section 80048.6.**

Chairperson O'Connor referenced the modifications to the regulations regarding Title 5 California Code of Regulations Section 80048.6 regarding the new authorization for Education Specialist Instruction Credentials and Special Education Added Authorization for the Communication Development Specialist, as included in the meeting packets. She stated that she prepared Board comments to the modified regulatory proposal, as several of the areas of ambiguity and inaccuracy outlined in the Board's original comments to the proposed regulations have not been rectified. Ms. O'Connor referenced the written comments as distributed to the Board and reviewed the areas of concern:

- The term "educational assessments" is not well defined and appears to be in conflict with the current provisions in both federal and state law.
- An objection to the use of the term "clinical assessments" as the *only* type of communication assessments a speech-language pathologist should be authorized to conduct.
- Overall concern that the proposed regulations appear to authorize the Communication Development Specialist to identify and treat specific language disorders without the involvement of the highly trained speech-language pathologist.

**M/S/C: Murphy/Grimes**

**The Board voted to accept the regulatory comments as prepared by Chairperson O'Connor and delegated Ms. Del Mugnaio to transmit the formal Board comments to the California Commission on Teacher Credentialing to be included in the official rulemaking file for the above reference regulatory action.**

**IX. Practice Committee Reports  
A. Hearing Aid Dispensers Committee Report and Recommendations for Proposed  
Regulatory Amendments Continuing Professional Development Provisions,  
Establishment Registration, Modifications to the Song Beverly Consumer  
Warranty Act, and Conditions for Referral Amendments**

Ms. Del Mugnaio provided an overview of the matters discussed at the Hearing Aid Dispensers Committee meeting and outlined the recommendations of the Committee before the Board (included under the Hearing Aid Dispensers Committee Meeting Minutes).

**M/S/C: Manning/Green**

**The Board voted to accept the report recommendations of the Hearing Aid Dispensers Committee.**

**B. Audiology Practice Committee Report and Recommendations for Proposed Regulatory Amendments Regarding Audiology Aides, Renewal Fees, and Continuing Professional Development Provisions**

Ms. Grimes provided an overview of the issues discussed at the Audiology Practice Committee meeting and outlined the recommendations of the Committee before the Board (included under the Audiology Practice Committee Meeting Minutes).

**M/S/C: Murphy/Manning**

**The Board voted to accept the report recommendations of the Audiology Practice Committee.**

**X. Proposed Legislation**

**A. Amendments to AB 1535- Omnibus Submission**

Ms. Del Mugnaio referenced the proposed legislation as included in the meeting packets and indicated that the proposal was developed in an effort to clean up the provisions of AB 1535 that were determined unclear, erroneously omitted, or administratively difficult to implement. She stated that she discussed the changes with the Senate Business, Professions, and Economic Development Committee and is seeking the assistance of the Committee to include the clean-up provisions in an omnibus bill. Ms. Del Mugnaio outlined the changes as follows:

- Defines the term “Dispensing Audiologist” as a licensed audiologist with the authorization to dispense hearing aids based on having met specified examination requirements.
- Provides for an audiologist with an inactive license to reactivate the audiology license and qualify for a dispensing audiology authorization by paying the specified fees and completing all associated continuing education as required for a dispensing audiologist.
- Provides for a licensed hearing aid dispenser who completes all requisite education and training to become a licensed audiologist to qualify for a dispensing audiology license.

Ms. Peffers inquired about the implementation of the provisions of AB 1535 as enacted and how the consumer is adequately notified about the authority for an audiologist to dispense hearing aids by referencing the Board’s website license verification features.

Ms. Burns explained that the on-line license verification feature will identify an audiologist as a dispensing audiologist if the licensee has been confirmed to possess the requisite qualifications and provides a definition of a dispensing audiologist. She stated that the license number of a dispensing audiologist shall remain an “AU” with the specified number and will include a class code of “dispensing audiologist,” which will be printed on the license and displayed on the website. Ms. Burns explained that if an individual searches for a dispensing audiologist under their hearing aid license number, the license will display “cancelled” and will include a disclaimer that the license has been cancelled because the authorization for dispensing hearing aids is incorporated under the audiology license. She stated that the website directs the individual to the audiology license verification feature.

Ms. Del Mugnaio explained that the certification to dispense hearing aids language that was included in AB 1535 was problematic since it required the Board to issue a separate certificate that was not tied to a license and had no specified terms of renewal or expiration. She further stated that the Board’s existing database could not adequately track the issuance of the certification and migrate the relative qualifying terms to the audiology license.

The Board discussed the requirements for including the proper licensure information on all patient records and concluded that dispensing audiologists must use their audiology license number on all hearing aid related documents since the hearing aid license for a dispensing audiologist will display invalid.

Ms. Winzelberg expressed the California Academy of Audiology's support for the proposed legislative amendments and encouraged the Board to adopt provisions to alleviate the administrative hurdles identified in AB 1535.

Ms. Hunter indicated that HHP has some concerns regarding the certification issue and the method of authorization, but stated that HHP will continue to work with the Board on an appropriate resolution.

**M/S/C: Grimes/Green**

**The Board voted to adopt the proposed omnibus legislation and delegated to Ms. Del Mugnaio the task of working with the interested parties and the Senate Business Professions and Economic Development Committee on securing a bill.**

**B. Senate Bill 1111- Consumer Health Protection Enforcement Act**

Ms. Del Mugnaio urged the Board to considering supporting the measure in concept, taking into account the forthcoming amendments as presented by Ms. Kirchmeyer.

Ms. Powell suggested the Board consider supporting the bill with the caveat that the Board will take the opportunity to provide further comments once the amendments are available for review.

**M/S/C: Murphy/Diaz**

**The Board voted to support SB 1111 with an acknowledgment that the Board will provide further comments on future amendments as identified by the Department of Consumer Affairs. The Board requested Ms. Del Mugnaio to send a letter of support with the identified disclaimer regarding the forthcoming amendments.**

**C. Assembly Bill 2072- Mendoza. Hearing Screenings; Resources and Services**

Ms. Del Mugnaio explained that AB 2072 would require information relative to communication options and community support be disseminated to parents of infants who fail the newborn hearing screening at the time of the screening, at a follow-up visit with an audiologist, or upon entry into an Early Start Program.

Ms. Grimes expressed her concern with the provisions of the bill since a large majority of newborns who fail the initial hearing screening are actually found to have normal hearing upon re-screening or diagnostic evaluation. She indicated that conceptually it's a great idea to distribute resource information to parents; however, general hospital personnel may not be equipped to answer questions from parents regarding infant hearing diagnosis and treatment strategies.

Ms. Winzelberg indicated that she and the California Academy of Audiology are working with Assembly Member Mendoza's Office to craft amendments to the bill that would encourage the dissemination of information to parents upon:

- Referral to the Early Start Program
- A follow-up visit with an audiologist and other appropriate professional
- Admission to an Early Start Program

Ms. Winzelberg indicated that further suggested amendments will include technical changes referencing referrals to community-based programs and will state that the reproduction of the materials will be at no cost to the provider or the state.

The Board requested that Ms. Del Mugnaio continue to track the bill and report back to the Board at the next meeting.

#### **D. Legislation of Interest to the Board**

##### **AJR 34- Over-the-Counter Hearing Aid Sales**

Ms. Del Mugnaio reported that the resolution urges the federal government to authorize the sale of over-the-counter hearing aids.

Ms. Hunter stated that HHP is opposed to this measure and has communicated to the author that there are tremendous consumer protections issues surrounding the over-the-counter sale of hearing aids. She indicated that the author's office agreed to strike the current language in the resolution and replace the language with a national hearing awareness message.

##### **AJR 31 Special Education Funding**

Ms. Del Mugnaio stated that AJR 31 addresses the need for the federal government to generate and allocate sufficient funds to special education and encourages the Federal Government to enact HR 1102 or other special education funding bills pending before Congress in order to fully fund special education. She stated that the resolution provides for the State Assembly to transmit copies of resolution to President, Vice President, and House Leaders. Ms. Del Mugnaio stated that a hearing on AJR 31 was scheduled for March 24, 2010, in the Assembly Education Committee. She stated that the California Speech-Language-Hearing Association is supporting the measure.

The Board discussed the merits of the resolution despite obvious fiscal challenges.

**M/S/C: Grimes/Murphy**

**The Board voted to support the AJR 31.**

#### **XI. Licensing / Enforcement/Examination Statistical Data**

The Board reviewed the statistical data as included in the meeting packets. The staff answered questions regarding the statistical format and terminology.

Ms. Newcomer answered questions regarding the examination statistics and indicated that the statistics do not reflect the number of candidates that have retaken the examination multiple times.

The Board discussed at length the administration, examination format, and legal validity of the hearing aid dispensers' practical examination.

Ms. Grimes requested that Ms. Del Mugnaio arrange for a representative from the Office of Professional Examination Resources to attend a future meeting and address the Board to explain the occupational analysis and examination validation process.

## **XII. Public Comment on Items Not on the Agenda**

Ms. Winzelberg addressed the Board regarding the elimination of further optional Medi-Cal benefits, including the possibility of the elimination of all adult hearing aid benefits, and requested the Board to discuss the consumer ramifications of such exclusions with the Department of Health Care Services.

Chairperson O'Connor indicated that a speech-language pathologist from southern California requested that she bring an issue before the Board regarding the saturation or, potential thereof, of bachelor degree holders registering as speech-language pathology assistants and dominating the job market. Chairperson O'Connor stated that many speech-language pathology educators are concerned about associate degree holders being displaced in the employment market, rendering the need for SLPA training programs at the community colleges obsolete.

Ms. Raggio inquired about the status of the development of the doctorate of audiology programs within the University of California system and whether or not the Board received any further communication regarding program development or a plan of such in the future.

Ms. Del Mugnaio indicated that she has not received any further communication from the University of California Office of the President in more than a year and contributes the absence of any contact to the budget crisis within the university systems.

## **XIII. Announcements- Schedule Future 2010 Board Meetings- July 26, 2010 Sacramento- Regulatory Next Practices Conference**

The Board selected meeting dates for the remainder of 2010 as follows: May 26-27, 2010, Sacramento/ July 26, 2010, Sacramento/ October 21-22, 2010, San Diego

## **XIV. Adjournment**

Chairperson O'Connor adjourned the meeting at 2:35 p.m.

**Department of Health Care Services  
Proposal May Revision Trailer Bill Language  
5-14-10**

**Renewal of 1115 Waiver**

- Mandatory Enrollment of SPDs
- Children with Special Health Needs (CCS)
- Dual Eligible Service Integration Projects
- Coverage Expansion and Enrollment Demonstration Projects (Phase I & II)

**AB 1629 Reauthorization/SNF Quality & Accountability – TBL & FACT SHEET PENDING**

**Distribution of 1115 Waiver Funding – TBL & FACT SHEET PENDING**

**Exception to Timely Filing Rule for Medicaid**

**Medi-Cal Cost Containment**

– Mandatory Co Pays – **TBL PENDING**

\$5 Copayment for Physician and FQHC/RHC Office Visits

\$5 Copayment for Dental Office Visits

\$3 and \$5 Pharmacy Copayments

\$50 Copayment for Nonemergency ER Visits

\$50 Copayment for Emergency ER Visits

\$100 Copayment per Hospital Inpatient Day/Max \$200 per Admission

--Caps on Optional Benefits

Cap on Hearing Aids at 90<sup>th</sup> Percentile

Cap on DME at 90<sup>th</sup> Percentile

Cap on Medical Supplies at 90<sup>th</sup> Percentile

--Cap on Physician Services – **TBL PENDING**

--Cap on Prescriptions

--Eliminate Selected OTC Drugs as Medi-Cal Benefit

--Limiting Enteral Nutrition Products

--Hospital Rate Freeze

--Reduce Radiology Rates to equal 80 percent of Medicare Rates

**Eliminate Part B Premium Payments for Beneficiaries Not Meeting SOC**

**Reassignment of Contract Negotiations for GMC Plans**

**Extend AB 1383 Two Quarters in Anticipation of ARRA Extension**

**California Department of Health Care Services  
Proposed May Revision Trailer Bill Legislation**

**Medi-Cal Cost Containment Proposal: Benefit Cap for Selected Optional Benefits**

**FACT SHEET**

**Background:** The federal government requires states that participate in Medicaid (Medi-Cal) to provide certain benefits, referred to as mandatory benefits. States may elect to provide certain additional benefits, referred to as optional benefits. This proposal will cap the maximum annual fiscal year reimbursement for certain optional benefits specifically hearing aids, durable medical equipment (DME), and select medical supplies. The Department of Health Care Services (DHCS) has calculated the annual cap for each category so that most beneficiaries will be unaffected and will apply certain exemptions that are discussed below.

Hearing Aids: Hearing aids were established as an optional benefit prior to 1988, and are provided as monaural (single) or binaural (dual). Medi-Cal has covered hearing aids when supplied by a hearing aid dispenser through the prescription of an otolaryngologist, or attending physician. Effective July 1, 2009, and with certain exceptions, Medi-Cal no longer considers audiology services to be a covered benefit. This proposal will establish a cap of \$1,510 per fiscal year.

Durable Medical Equipment: Durable Medical Equipment (DME) was established as an optional benefit prior to 1988. Medi-Cal requires that DME be ordered by the written prescription of a licensed practitioner within the scope of his/her practice. Examples of DME items include: ambulation devices, bathroom equipment, decubitus care equipment, hospital beds and accessories, patient lifts, traction and trapeze equipment, communication devices, IV equipment, oxygen and respiratory equipment, and wheelchairs and accessories. This proposal will establish a cap of \$1,604 per fiscal year.

Select Medical Supplies: Medical supplies were added as a benefit in 1976. California Code of Regulations, Title 22, section 51320 lists medical supplies as a benefit when prescribed by a physician, and sets reimbursement at estimated acquisition cost plus 23 percent, with the reimbursement not to exceed the price charged to the general public. Welfare and Institutions Code 14105.47 establishes the Maximum Allowable Product Cost and the procedures for establishing it. The select medical supplies include: incontinence supplies with a fiscal year cap of \$1,659; urological supplies with a fiscal year cap of \$6,435; and wound care supplies with a fiscal year cap of \$391.

Similar to the elimination of certain optional benefits that DHCS implemented in FY 2009-10, certain Medi-Cal beneficiaries will be exempt from these reductions and certain benefits in these categories will not count against the cap.

Benefit Cap Exemptions:

- Pregnancy-related benefits and benefits for the treatment of other conditions that might complicate the pregnancy if not treated;
- Beneficiaries under the age of 21;
- Beneficiaries residing in a long-term care nursing facility that is both: (A) A skilled nursing facility or intermediate care facility as defined in subdivisions (c) and (d) of Section 1250 of the Health and Safety Code, and (B) Licensed pursuant to subdivision (k) of Section 1250 of the Health and Safety Code;
- DME items associated with compressed oxygen and respirators; and
- Disposable medical supply items associated with tracheostomy, respiratory care; ostomy care; IV infusion; and diabetic testing; disposable gloves and miscellaneous medical supplies

The proposal shall only be implemented to the extent permitted by federal law.

**Why is this change needed?**

California is facing a multi-billion dollar shortfall, and Medi-Cal, as the second largest state program after education, must be part of the effort to reduce General Fund costs. These actions will reduce the services provided under these programs and will therefore reduce Medi-Cal expenditures.

**Potential for opposition, if yes, why.**

There would be opposition to this proposal by advocates, provider groups, and welfare rights organization. The opposition may result in some beneficiaries going without care in some instances and will have the biggest impact on beneficiaries who utilize services the most.

**Is there a BCP associated with this language (yes or no)?** There is not a BCP associated with this language; this item has been included in the May Estimate.

**Any other brief information that is relevant/important to highlight so that one can fully understand the issue that is being presented.**

Future managed care capitation rates will require adjustment to reflect these benefit caps.

**California Department of Health Care Services  
Proposed May Revision Trailer Bill Legislation**

**Medi-Cal Cost Containment Proposal: Benefit Cap for Selected Optional  
Benefits**

Add Section 14131.05 of the Welfare and Institutions Code as follows:

14131.05. (a) Notwithstanding any other provision of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 commencing with Section 14590), in order to implement changes in the level of funding for health care services, specific optional benefits are subject to per-beneficiary “benefit cap amounts” under the Medi-Cal program.

(b) A benefit cap amount is defined as the maximum amount of Medi-Cal coverage for specified optional benefits in subdivision (c) of this section, for each beneficiary, for each fiscal year.

(c) The following optional benefits are subject to a benefit cap amount under the Medi-Cal program:

(1) Hearing aids benefits are subject to a benefit cap amount of \$1,510.

(2) Durable medical equipment benefits are subject to a benefit cap amount of \$1,604.

(3) Select disposable medical supply benefits are subject to the following benefit cap amounts:

(A) Incontinence medical supplies are subject to a benefit cap of \$1,659.

(B) Urological medical supplies are subject to a benefit cap of \$6,435.

(C) Wound care medical supplies are subject to a benefit cap of \$391.

(d) The benefit cap amounts in subdivision (c) of this section do not apply to the following items:

(1) Compressed oxygen equipment and supplies

(2) Respiratory equipment and supplies

(3) Tracheostomy medical supplies

(4) Ostomy medical supplies

(5) Diabetic medical supplies

(6) Respiratory medical supplies

(7) Infusion supplies

(8) Disposable gloves

(9) Medical supplies categorized as “miscellaneous” on the Medi-Cal list of covered medical supplies.

(e) Pregnancy-related benefits and benefits for the treatment of other conditions that might complicate the pregnancy are not subject to the benefit cap amounts in subdivision (c) of this section.

(f) The benefit cap amounts in subdivision (c) of this section do not apply to the following beneficiaries:

(1) Beneficiaries under the Early and Periodic Screening Diagnosis and Treatment Program.

- (2) Beneficiaries receiving long-term care in a nursing facility that is both:
- (A) A skilled nursing facility or intermediate care facility as defined in subdivisions (c) and (d) of Section 1250 of the Health and Safety Code.
  - (B) Licensed pursuant to subdivision (k) of Section 1250 of the Health and Safety Code.
- (g) This section shall only be implemented to the extent permitted by federal law.
- (h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section by means of all-county letters, provider bulletins, or similar instructions, without taking further regulatory action.
- (i) This section shall be implemented on the first day of the month following 90 days after the operative date of this section.

DEPARTMENT OF CONSUMER AFFAIRS

**Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board**

**Hearing Aid Dispensers**

**REVENUE BUDGET REPORT**

FY 2009-10 Expenditure Projection

**BASED ON MARCH 2010 CALSTARS REPORT**

Month Number	9
Mo. Remaining	3

REVENUE FOR FY 2009-2010					% OF ESTIMATE COLLECTED	FY 2008-09	
CATEGORY	CODE	ESTIMATED	YTD	+ / -		Scheduled	Actual
FINGERPRINTS	991937.01	\$ 9,000.00	\$ 306.00	(8,694.00)	3%	9,000.00	51.00
PUBLIC SALES	991937.02	\$ -	\$ 2,375.00	2,375.00	#DIV/0!	0.00	1,920.00
UNSCHEDULED	995988	\$ -	\$ -	0.00	-	0.00	1,749.96
	<b>TOTAL:</b>	<b>\$ 9,000.00</b>	<b>\$ 2,681.00</b>	<b>(6,319.00)</b>	<b>30%</b>	<b>9,000.00</b>	<b>3,720.96</b>
OTHER	125600	\$ -	\$ 1,410.00	1,410.00	#DIV/0!	4,000.00	765.00
INITIAL APPLICATION	125700	\$ -	\$ 88,000.00	88,000.00	#DIV/0!	135,000.00	194,750.00
RENEWAL	125800	\$ -	\$ 358,658.00	358,658.00	#DIV/0!	453,000.00	489,745.00
DELINQUENT	125900	\$ -	\$ 3,700.00	3,700.00	#DIV/0!	4,000.00	4,750.00
INTEREST	150300	\$ -	\$ 4,600.71	4,600.71	#DIV/0!	55,000.00	29,106.47
MISCELLANEOUS	161000	\$ -	\$ 175.00	175.00	-	0.00	405.00
MISCELLANEOUS	161400	\$ -	\$ 50.00	50.00	-	0.00	30.00
	<b>TOTAL:</b>	<b>\$ -</b>	<b>\$ 456,593.71</b>	<b>456,593.71</b>	<b>#DIV/0!</b>	<b>651,000.00</b>	<b>719,551.47</b>
	<b>TOTAL:</b>	<b>\$ 9,000.00</b>	<b>\$ 459,274.71</b>	<b>450,274.71</b>	<b>5103%</b>	<b>660,000.00</b>	<b>723,272.43</b>

DEPARTMENT OF CONSUMER AFFAIRS  
**Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board**  
**Speech-Language Pathology and Audiology**

**BUDGET REPORT**

FY 2009-10 Expenditure Projection

BASED ON MARCH 2010 CALSTARS REPORT

Month Number	9
Mo. Remaining	3

OBJECT DESCRIPTION	FY 2008-09		FY 2009-10					STRAIGHT LINE	METHODOLOGY
	ACTUAL EXPENDITURES (MONTH 13)	EXPENDITURES AS OF 3/31/2009	Final BUDGET ALLOTMENT	EXPENDITURES AS OF 3/31/2010	EXPENDITURE PROJECTIONS AT YEAR END	UNENCUMBERED BALANCE AT YEAR END			
<b>PERSONAL SERVICES</b>									
Salary & Wages	259,257	201,492	239,913	170,016	#REF!	#REF!	226,688	PC ROSTER	
Temp Help 907	8,868	1,665	14,007	15,803	#REF!	#REF!	21,071	PC ROSTER	
Bd/Comm (901,920)	0	0	5,854	1,200	1,600	4,254	1,600	STRAIGHT LINE	
Overtime	712	712	0	0	0	0	0	YEAR TO DATE	
Benefits	98,720	79,881	93,461	69,601	#REF!	#REF!	92,801	STAFF BENEFIT RATIO	
Salary Savings	0	0	(6,597)	0	0	-6,597	0	BUDGET AMOUNT	
<b>TOTAL PERS SVS</b>	<b>367,557</b>	<b>283,750</b>	<b>346,638</b>	<b>256,620</b>	<b>#REF!</b>	<b>#REF!</b>	<b>342,160</b>		
<b>OPERATING EXPENSES &amp; EQUIPMENT</b>									
Fingerprints	5,478	2,805	23,615	3,570	4,760	18,855	4,760	STRAIGHT LINE	
General Expense	7,361	5,013	12,404	5,031	8,208	4,196	6,708	STRAIGHT LINE + ESTIMATE	
Minor Equipment 226	6,411	6,488	3,800	122	422	3,378	163	YEAR TO DATE + ESTIMATE	
Printing	19,341	16,237	18,964	4,865	6,487	12,477	6,487	STRAIGHT LINE	
Communication	6,977	4,962	9,624	2,620	5,304	4,320	3,493	STRAIGHT LINE + ESTIMATE	
Postage	16,880	11,916	2,598	12,979	17,305	-14,707	17,305	STRAIGHT LINE	
Noc-Insurance	0	0	0	0	0	0	0	PRIOR YEAR	
Travel In State	9,619	5,032	11,394	7,969	13,661	-2,267	13,661	STRAIGHT LINE (2)	
Travel Out of State	698	698	1,324	0	0	1,324	0	YEAR TO DATE	
Training	229	27	4,813	147	147	4,666	196	YEAR TO DATE	
Facilities Ops	54,972	54,500	64,576	58,237	58,237	6,339	77,649	YEAR TO DATE	
Alterations	0	0	0	0	0	0	0	PRIOR YEAR	
C&P Serv. Internal	0	87	2,753	0	0	2,753	0	PRIOR YEAR	
**C&P Serv. External	25	0	0	0	25	-25	0	PRIOR YEAR	
<b>DEPARTMENTAL PRORATA</b>									
DP Billing (OIS)	60,002	55,251	69,222	51,921	69,222	0	69,228	FULL BUDGET	
Indirect Dist. Cost	44,208	35,181	41,866	31,401	41,866	0	41,868	FULL BUDGET	
DOI - Prorata	1,461	1,413	1,687	1,269	1,687	0	1,692	FULL BUDGET	
Public Affairs	1,810	1,737	3,875	2,907	3,875	0	3,876	FULL BUDGET	
CCED	2,104	1,710	2,040	1,530	2,040	0	2,040	FULL BUDGET	
OPP Support Servs	0	0	0	0	0	0	0	FULL BUDGET	
Interagency Agreement (IAC)	32,437	0	93	0	93	0	0	FULL BUDGET	
Share Services (MBC)	88	88	0	0	0	0	0	FULL BUDGET	
<b>CONSOLIDATED DATA CENTERS</b>									
Consolidated Data Cntr (Teale)	400	2,000	5,460	2,000	400	5,060	2,667	PRIOR YEAR	
<b>DATA PROCESSING</b>									
DP Maint & supplies (432,436)	248	248	3,806	0	248	3,558	0	PRIOR YEAR	
IT Hardware	0	0	0	10	0	0	13	PRIOR YEAR	
Electric Waste/Recycle	32	32	0	0	32	-32	0	PRIOR YEAR	
<b>CENTRAL ADMINISTRATIVE SVC</b>									
Central Adm. Services (Statewide Prof)	37,706	28,280	34,942	26,207	34,942	0	34,943	FULL BUDGET	
<b>EXAMS</b>									
Exam supplies & freight	0	0	0	0	0	0	0	PRIOR YEAR	
Exam Site rental	0	0	0	0	0	0	0	PRIOR YEAR	
Expert Exam	0	0	0	0	0	0	0	PRIOR YEAR	
Exam Contracts	0	0	0	0	0	0	0	PRIOR YEAR	
Expert Examiners (SME)	3,785	1,100	0	0	0	0	0	ESTIMATE	
<b>ENFORCEMENT</b>									
Attorney General	43,857	22,803	48,572	35,085	#REF!	#REF!	46,780	STRAIGHT LINE	
Off of Admin Hearings	2,087	440	5,112	993	2,087	3,025	1,324	PRIOR YEAR	
Evidence/Witness	10,057	4,357	6,428	4,700	10,900	-4,472	6,267	ESTIMATE	
Court Reporter Servs	500	0	0	0	500	-500	0	PRIOR YEAR	
Div of Investigations	47,648	40,887	0	0	0	0	0	FULL BUDGET	
<b>MAJOR EQUIPMENT</b>									
Major Equipment	0	0	0	0	0	0	0	FULL BUDGET	
<b>OTHER</b>									
Special adjustment	0	0	0	0	0	0	0	PRIOR YEAR	
Tort Payment	0	0	0	0	0	0	0	PRIOR YEAR	
<b>Total OE &amp; E</b>	<b>416,421</b>	<b>303,292</b>	<b>378,968</b>	<b>253,563</b>	<b>#REF!</b>	<b>#REF!</b>	<b>341,120</b>		
<b>TOTAL EXPENDITURES</b>	<b>783,978</b>	<b>587,042</b>	<b>725,606</b>	<b>510,183</b>	<b>#REF!</b>	<b>#REF!</b>	<b>683,280</b>		
Fingerprint Reimb.	(6,022)	(3,624)	(22,000)	(3,825)	(6,557)	(15,443)	(6,557)	STRAIGHT LINE	
Other Scheduled Reimb.	(6,905)	(5,730)	(2,000)	(4,530)	(7,766)	5,766	(7,766)	STRAIGHT LINE	
<b>Total Reimbursements</b>	<b>(12,927)</b>	<b>(9,354)</b>	<b>(24,000)</b>	<b>(8,355)</b>	<b>(14,323)</b>	<b>(9,677)</b>	<b>(14,323)</b>		
<b>NET APPROPRIATION</b>	<b>771,051</b>	<b>577,688</b>	<b>701,606</b>	<b>501,828</b>	<b>#REF!</b>	<b>#REF!</b>	<b>654,634</b>		

NOTES/ASSUMPTIONS

1. CY expenditures include YTD+ Encumbrances

<b>TOTAL PROJECTED DEFICIT/SURPLUS</b>	<b>#REF!</b>
<b>OE&amp;E TARGET REDUCTION:</b>	<b>(33,594)</b>
<b>ADJUSTED DEFICIT/SURPLUS:</b>	<b>#REF!</b>

DEPARTMENT OF CONSUMER AFFAIRS

Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board

Speech-Language Pathology and Audiology

REVENUE BUDGET REPORT

FY 2009-10 Expenditure Projection

BASED ON MARCH 2010 CALSTARS REPORT

Month Number	9
Mo. Remaining	3

REVENUE FOR FY 2009-2010					% OF ESTIMATE COLLECTED	PRIOR YEAR FY 2008-09
CATEGORY	CODE	ESTIMATED	YTD	+ / -		
FINGERPRINTS	991937.01	\$ 22,000.00	\$ 3,825.00	(18,175.00)	17%	6,022.00
PUBLIC SALES	991937.02	\$ 2,000.00	\$ 4,530.00	2,530.00	227%	6,905.00
UNSCHEDULED	995988	\$ -	\$ 1,150.00	1,150.00	-	14,540.25
	<b>TOTAL:</b>	<b>\$ 24,000.00</b>	<b>\$ 9,505.00</b>	<b>(14,495.00)</b>	<b>40%</b>	<b>27,467.25</b>
OTHER	125600	\$ 13,100.00	\$ 9,215.00	(3,885.00)	70%	8,259.75
INITIAL APPLICATION	125700	\$ 74,810.00	\$ 67,542.00	(7,268.00)	90%	36,562.00
RENEWAL	125800	\$ 674,285.00	\$ 594,005.00	(80,280.00)	88%	277,265.09
DELINQUENT	125900	\$ 23,350.00	\$ 11,174.00	(12,176.00)	48%	9,775.00
INTEREST	150300	\$ 21,000.00	\$ 4,616.36	(16,383.64)	22%	21,145.53
MISCELLANEOUS	161000	\$ -	\$ 120.00	120.00	-	848.00
MISCELLANEOUS	161400	\$ -	\$ 140.00	140.00	-	70.00
	<b>TOTAL:</b>	<b>\$ 806,545.00</b>	<b>\$ 686,812.36</b>	<b>(119,732.64)</b>	<b>85%</b>	<b>353,925.37</b>
	<b>TOTAL:</b>	<b>\$ 830,545.00</b>	<b>\$ 696,317.36</b>	<b>(134,227.64)</b>	<b>84%</b>	<b>381,392.62</b>

DEPARTMENT OF CONSUMER AFFAIRS  
**Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board**  
**Hearing Aid Dispensers**

**BUDGET REPORT**

FY 2009-10 Expenditure Projection

BASED ON MARCH 2010 CALSTARS REPORT

Month Number	9
Mo. Remaining	3

OBJECT DESCRIPTION	FY 2008-09		FY 2009-10					STRAIGHT LINE	METHODOLOGY
	ACTUAL EXPENDITURES (MONTH 13)	EXPENDITURES AS OF 3/31/2009	Final BUDGET ALLOTMENT	EXPENDITURES AS OF 3/31/2010	EXPENDITURE PROJECTIONS AT YEAR END	UNENCUMBERED BALANCE AT YEAR END			
<b>PERSONAL SERVICES</b>									
Salary & Wages	208,160	130,438	197,499	128,404	#REF!	#REF!	171,205	PC ROSTER	
Temp Help 907	39,601	30,210	0	1,375	#REF!	#REF!	1,833	PC ROSTER	
Bd/Comm (901,920)	4,700	3,100	5,822	700	#REF!	#REF!	933	PC ROSTER	
Allocated Proctor Comp	632	432		1,007	#REF!			PC ROSTER	
Overtime	6,136	3,812	0	77	#REF!	#REF!	103	PC ROSTER	
Benefits	95,543	68,117	71,847	52,212	#REF!	#REF!	69,616	STAFF BENEFIT RATIO	
Salary Savings	0	0	(6,610)	0	0	-6,610	0	PRIOR YEAR	
<b>TOTAL PERS SVS</b>	<b>354,772</b>	<b>236,109</b>	<b>268,558</b>	<b>183,775</b>	<b>#REF!</b>	<b>#REF!</b>	<b>243,691</b>		
<b>OPERATING EXPENSES &amp; EQUIPMENT</b>									
Fingerprints	51	51	9,000	287	383	8,617	383	STRAIGHT LINE	
General Expense	12,040	8,316	26,782	3,311	4,415	22,367	4,415	STRAIGHT LINE	
Minor Equipment 226	151	233	35,700	19,784	19,784	15,916	26,379	YEAR TO DATE	
Printing	2,181	1,175	12,573	1,128	2,181	10,392	1,504	PRIOR YEAR	
Communication	2,169	663	8,743	2,431	3,241	5,502	3,241	STRAIGHT LINE	
Postage	6,508	3,775	12,573	5,329	7,105	5,468	7,105	STRAIGHT LINE	
Noc-Insurance	0	0	0	0	0	0	0	PRIOR YEAR	
Travel In State	32,790	20,319	23,163	4,059	20,000	3,163	5,412	ESTIMATE	
Travel Out of State	0	0	0	0	0	0	0	FULL BUDGET	
Training	326	19	3,633	0	0	3,633	0	YEAR TO DATE	
Facilities Ops	34,112	33,206	43,508	43,214	43,214	294	57,619	YEAR TO DATE	
Alterations	0	0	0	0	0	0	0	PRIOR YEAR	
C&P Serv. Internal	0	0	137	0	0	137	0	PRIOR YEAR	
**C&P Serv. External	0	0	0	0	0	0	0	PRIOR YEAR	
<b>DEPARTMENTAL PRORATA</b>									
DP Billing (OIS)	29,399	27,072	41,630	31,221	41,630	0	41,628	FULL BUDGET	
Indirect Dist. Cost	57,397	45,675	55,410	41,562	55,410	0	55,416	FULL BUDGET	
DOI - Prorata	1,165	1,125	1,351	1,017	1,351	0	1,356	FULL BUDGET	
Public Affairs	1,448	1,395	3,101	2,322	3,101	0	3,096	FULL BUDGET	
CCED	21,397	17,100	57,836	43,380	57,836	0	57,840	FULL BUDGET	
OPP Support Serves	0	0	0	0	0	0	0	FULL BUDGET	
Interagency Agreement (IAC)	26,790	26,790	29,351	32,210	29,351	0	42,947	FULL BUDGET	
IA Share Services	0	0	96	0	96	0	0	FULL BUDGET	
<b>CONSOLIDATED DATA CENTERS</b>									
Consolidated Data Cntr (Teale)	200	6,000	2,555	6,000	305	2,250	8,000	PRIOR YEAR	
<b>DATA PROCESSING</b>									
DP Maint & supplies (432,436)	0	0	12,770	0	0	12,770	0	PRIOR YEAR	
IT Hardware	0	0	0	0	0	0	0	PRIOR YEAR	
Electric Waste/Recycle	0	0	0	0	0	0	0	PRIOR YEAR	
<b>CENTRAL ADMINISTRATIVE SVC</b>									
Central Adm. Services (Statewide Prorata)	31,642	23,732	22,692	17,019	22,692	0	22,692	FULL BUDGET	
<b>EXAMS</b>									
Exam Rent - State Owned	5,476	4,155	0	1,615	5,476	-5,476	2,153	PRIOR YEAR	
Exam Rent - Non State	0	0	7,663	0	0	7,663	0	PRIOR YEAR	
Administrative - Ext S	13,150	13,150	25,542	15,250	15,250	10,292	20,333	YEAR TO DATE	
C/P Svs - Expert Exam	0	0	37,913	0	0	37,913	0	PRIOR YEAR	
C/P Svs - Ext Sub Ma	48,405	29,411	0	23,337	48,405	-48,405	31,116	PRIOR YEAR	
<b>ENFORCEMENT</b>									
Attorney General	23,174	16,824	41,995	20,986	41,995	0	27,981	BUDGET	
Off of Admin Hearings	8,577	132	16,637	3,759	8,577	8,060	5,012	PRIOR YEAR	
Evidence/Witness	0	0	1,277	0	0	1,277	0	PRIOR YEAR	
Court Reporter Serves	334	334	0	0	334	-334	0	PRIOR YEAR	
Div of Investigations	3,187	2,736	160,615	120,465	160,615	0	160,620	FULL BUDGET	
<b>MAJOR EQUIPMENT</b>									
Major Equipment	0	0	0	0	0	0	0	FULL BUDGET	
<b>OTHER</b>									
Special adjustment	0	0	0	0	0	0	0	PRIOR YEAR	
Tort Payment	0	0	0	0	0	0	0	PRIOR YEAR	
<b>Total OE &amp; E</b>	<b>362,069</b>	<b>283,388</b>	<b>694,246</b>	<b>439,686</b>	<b>592,747</b>	<b>101,499</b>	<b>586,248</b>		
<b>TOTAL EXPENDITURES</b>	<b>716,841</b>	<b>519,497</b>	<b>962,804</b>	<b>623,461</b>	<b>#REF!</b>	<b>#REF!</b>	<b>829,939</b>		
Scheduled Reimbursements	(1,971)	(1,205)	(9,000)	(2,681)	(4,596)	(4,404)	(4,596)	STRAIGHT LINE	
Unscheduled Reimbursements	(1,750)	(1,312)	0	0	0	0	0	YEAR TO DATE	
<b>Total Reimbursements</b>	<b>(3,721)</b>	<b>(2,517)</b>	<b>(9,000)</b>	<b>(2,681)</b>	<b>(4,596)</b>	<b>(4,404)</b>	<b>(4,596)</b>		
<b>NET APPROPRIATION</b>	<b>713,120</b>	<b>516,980</b>	<b>953,804</b>	<b>620,780</b>	<b>#REF!</b>	<b>#REF!</b>	<b>#REF!</b>		

NOTES/ASSUMPTIONS

1. CY expenditures include YTD+ Encumbrances

<b>TOTAL PROJECTED DEFICIT/SURPLUS</b>	<b>#REF!</b>
<b>OE&amp;E TARGET REDUCTION:</b>	<b>(80,287)</b>
<b>ADJUSTED DEFICIT/SURPLUS:</b>	<b>#REF!</b>

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND  
HEARING AID DISPENSERS BOARD  
PROPOSED LANGUAGE**

Adopt Sections 1399.128-1399.128.1 of Division 13.3- and Sections 1399.157.3-1399.157.4 of Division 13.4- Title 16 of the California Code of Regulations to read as follows:

**Division 13.3 Article 5.**  
**General Rules Regarding Fingerprint Requirement**

**Section 1399.128. Response to Board Inquiry.**

If the Board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 3352 & 144 Business and Professions Code, and Section 11105 Penal Code

**Section 1399.128.1. Fingerprint and Disclosure Requirements for Renewal of License.**

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.

(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.

(4) A licensee shall retain, for at least three years from the date the fingerprints were taken, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.

(c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(d) Failure to furnish a full set of fingerprints to the Department of Justice within 60 days of receipt of notification by the Board as required by this section is grounds for discipline by the Board.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 3352 & 144 Business and Professions Code, and Section 11105 Penal Code

**Division 13.4 Article 8.**  
**General Rules Regarding Fingerprint Requirement**

**Section 1399.157.3. Response to Board Inquiry.**

If the board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code

**Section 1399.157.4. Fingerprint and Disclosure Requirements for Renewal of License.**

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.

(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.

(4) A licensee shall retain, for at least three years from the date the fingerprints were taken, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.

(c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(d) Failure to furnish a full set of fingerprints to the Department of Justice within 60 days of receipt of notification by the Board as required by this section is grounds for discipline by the Board.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code



The proposal further requires as a condition of license renewal, that a licensee disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state. The reporting requirement does not include traffic infractions under \$300 that do not involve alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold. Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

**Factual Basis:**

On January 1, 2010, the Hearing Aid Dispensers Bureau, established in 1972, and the Speech-Language Pathology and Audiology Board, established in 1974, merged to form one licensing body. Both the former entities required submission of fingerprints for state and federal level CORI searches from their inception. The primary 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.

In an effort to protect the public from unscrupulous individuals, the Board receives notification of arrests and criminal convictions on licensees from the DOJ which provides both the state and federal level search information. Prior to 1999, applicants provided fingerprints using rolled fingerprints on a hard card. In 1999, the use of LiveScan became widely available and as a result, all applicants for registration and licensure were required to submit their prints via LiveScan. The submission of fingerprints by hard card was accepted only in those cases where the applicant is located outside of California, or demonstrates a hardship approved by the Board.

The necessity of the changes in this proposal stemmed from recent information brought to the attention of the Board by the DOJ regarding delays in reporting of CORI for all those individuals who submit fingerprints on hard cards. The information provided to the Board identified that those individuals who submit fingerprints on hard cards are not entered into the DOJ electronic database. As a result, their files must be pulled manually and then entered into the electronic database before the arrest is reported to the Board. The process for receiving arrest information from the DOJ on individuals that do not have an electronic record takes approximately six months. The significant delay allows a practitioner to continue practicing without the Board's knowledge of any unprofessional conduct that may be related to the duties, functions and qualifications of the professional license that individual holds.

Business and Professions Code Section 3401(d) permits the Board to deny, issue subject to terms and conditions, suspend, or revoke a license or impose conditions of probation upon a licensee for conviction of any crime substantially related to the qualifications, functions or duties of a hearing aid dispenser.

Business and Professions Code Section 2533(a) permits the Board to refuse to issue, or issue subject to terms and conditions, a license as well as suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct which includes conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist. In order to fully implement the unprofessional conduct statutes that require the Board to discipline a license or registrant that has been convicted of a crime substantially related to the qualifications, functions or duties of their professional service, the Board must receive information related to those criminal convictions in a timely manner. This proposed rulemaking is necessary to ensure that all Board licensees and registrants submit fingerprints to DOJ via LiveScan for the purpose of a state and federal criminal records check in order for the Board to enforce the unprofessional conduct statutes.

**Underlying Data:**

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 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 would be no costs to businesses to comply with this regulation. This proposed regulation would only affect individuals for whom an electronic record of his or her fingerprints does not exist in the DOJ criminal offender record identification database and those licensees and registrants that do not comply with the proposed regulation.

There are approximately 750 vendors statewide who provide fingerprinting services. There should be no initial or ongoing cost impact on the vendors because they are already equipped to provide the service.

**Specific Technologies or Equipment:**

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

       This regulation mandates the use of specific technologies or equipment. Such mandates or prescriptive standards are required for the following reasons:

**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 either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

## **SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD**

### **INITIAL STATEMENT OF REASONS**

Hearing Date: Unknown

Subject Matter of Proposed Regulations: Cochlear Implantation

Amend Sections 1399.150.2 of Title 16, Division 13.4, Article 1

Specific Purpose of each adoption, amendment, or repeal:

Section 1399.150.2 (Amend)

Adds subsection (c), to clarify that the meaning of “aural habilitation and rehabilitation” as used in Business and Professions Code section 2530.2(k), includes the evaluation of patients for Cochlear Implantation; the fitting and mapping of the external processor and related rehabilitation; follow-up services, including testing the function of the Cochlear Implant at the time of surgery and thereafter to ensure appropriate placement; and related patient and family counseling.

Factual Basis/Rationale

Factual basis for determination that each proposed change is necessary:

Business and Professions Code Section 2530.2(k) defines the practice of audiology and in doing so, refers to the term “aural habilitation and rehabilitation”. This amendment clarifies the Audiologist’s role in Cochlear Implantation procedures and related responsibilities.

During the mapping of a Cochlear Implant, the Audiologist delivers an electrical current into the patient’s inner ear and by extension, into the brain. Audiologists have education, training, experience, and expertise to perform this duty, while other support personnel do not. Improper performance of this process can result in facial twitching and pain to the patient. Additionally, the Audiologist counsels the patient and provides needed rehabilitation after the implantation takes place. Patients often need assistance in lip-reading, auditory training, auditory-visual integration, expectations and assistive devices in order to have success with a Cochlear Implant.

Currently personnel employed by cochlear implant manufacturers are often delegated the task of providing fitting, mapping, and consultation to the patient or the patient’s families and while the industry personnel may have knowledge regarding the technology of the implant device, they do not possess the extensive expertise of an Audiologist who is educated and trained in hearing deficits and related auditory functions.

### Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

N/A

### Business Impact

This regulation will not have a significant adverse economic impact on businesses.

### Specific Technologies or Equipment

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

### Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

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

To continue with the Board's regulations as they are currently written. This alternative was rejected. Existing regulations do not clearly reflect the Audiologists role in Cochlear implantation nor do they clarify that untrained or unlicensed individuals should be prohibited from performing such functions.

# TITLE 16 CALIFORNIA CODE OF REGULATIONS

## Article 1. General Provisions

### 1399.150.2. Definitions.

- (a) For the purpose of the regulations contained in this division, the term:
  - (1) "Board" means the Speech-Language Pathology and Audiology Board;
  - (2) "Medical Board" means the Medical Board of California;
  - (3) "Code" means the California Business and Professions Code;
  - (4) "Act" means the Speech-Language Pathologists and Audiologists Licensure Act;
- (b) As used in Section 2530.2, subdivision (e), of the Code:
  - (1) "The development and disorders of speech" means the development and disorders of articulation, fluency, mastication and deglutition.
  - (2) "The development and disorders of voice" means the development and disorders of vocal quality and vocal production.
  - (3) "The development and disorders of language" means the development and disorders of auditory processing, auditory memory, verbal language, written language, visual processing, visual memory, cognition and communication, and non-verbal/non-oral language.
- (c) As used in Section 2530.2(k) of the Business and Professions Code, the term "aural habilitation and rehabilitation" includes the evaluation of patients for cochlear implantation, fitting, and mapping of the external processor; related rehabilitation and follow-up services, including testing the function of the cochlear implant at the time of surgery to ensure appropriate placement; and related patient and family counseling.

NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.2 and 2531.95, Business and Professions Code.

## TOEIC Standard Setting Meeting

The TOEIC Standard Setting meeting was held for two days, April 27 and 28, in Princeton, New Jersey at ETS's (Educational Testing Service) Chauncey Conference Center, April 27 and 28. TOEIC stands for Test of English for International Communication and is comprised of four English language tests in listening, reading, speaking and writing.

“Standard Setting is the process by which a panel of informed experts makes score requirement recommendations that correspond with the level of knowledge, skill, proficiency, mastery or readiness candidates need to be placed in a certain category. The end result of standard setting is a recommended minimum score requirement, or cut score.” (ETS, “Mapping the TOEIC and TOEIC Bridge for the Common European Framework”, page 1) The TOEIC reading and listening tests had previously set standards. This meeting was held to set passing scores for nurses on the TOEIC in speaking and writing. The Department of Homeland Security will be adjusting the regulations regarding nonimmigrant visas, particularly in the seven professions under the healthcare worker category.

CGNFS, the Commission on Graduates of Foreign Nursing Schools, has trademarked *VisaScreen*, which is the procedure for the seven categories of healthcare workers coming into the United States. For passing scores for these healthcare professions, please refer to page 14 of the CGFNS (attached) handbook. These scores reflect what is currently acceptable but are in the process of being reviewed.

### ***VisaScreen*<sup>®</sup>: Visa Credentials Assessment (from CGFNS website)**

The U.S. Citizenship and Immigration Services (USCIS), under section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, has requirements for the following seven categories of health care professionals who are educated outside the United States and who are seeking temporary or permanent occupational visas or Trade NAFTA (TN) status:

- Registered nurses
- Physical therapists
- Occupational therapists
- Physician assistants
- Clinical laboratory technicians (medical technicians)
- Clinical laboratory scientists (medical laboratory technologists)
- Speech language pathologists
- Audiologists and
- Licensed practical or vocational nurses

To first obtain an International Commission on Healthcare Professions *VisaScreen*<sup>®</sup> certificate. *VisaScreen*<sup>®</sup> is administered by the International Commission on Healthcare Professions (ICHP), a division of CGFNS International. “The English language proficiency assessment confirms that

the applicant has demonstrated the required competency in oral and written English by submitting passing scores on tests jointly approved by the U.S. Department of Education and the U.S. Department of Health and Human Services.” (CGFNS website, English Language Proficiency for *VisaScreen*<sup>®</sup>). The TOEIC is one set of tests.

TOEIC Speaking and Writing Tests are given via the computer.

The *TOEIC Speaking Test* is organized into 11 tasks as follows-

**1– 2 Read a text aloud:**  Pronunciation  Intonation and stress

**3 Describe a picture:** All of the above, plus  Grammar,  Vocabulary, and  Cohesion

**4 – 6 Respond to questions:** All of the above, plus  Relevance of content and  Completeness of content

**7– 9 Respond to questions using information provided:** All of the above

**10 Propose a solution:** All of the above

**11 Express an opinion:** All of the above

The *TOEIC Writing Test* is organized into 8 tasks as follows-

**1– 5 Write a sentence based on a picture:**  Grammar  Relevance of the sentences to the pictures

**6 –7 Respond to a written request:**  Quality and variety of your sentences  Vocabulary  Organization

**8 Write an opinion essay:**  Whether the opinion is supported with reasons and/or examples  Grammar  Vocabulary  Organization

Scaled scores of the TOEIC are equated to proficiency levels. There are 8 proficiency levels for speaking and 9 for writing. The TOEIC Listening and Reading tests have been mapped with the CERF, the Common European Framework of Reference for Language which “provides a common basis for describing language proficiency...” (ETS, “Mapping the TOEIC and TOEIC Bridge for the Common European Framework”, page 1) The CERF model has 6 levels and is provided for reference. The Speaking and Writing tests of the TOEIC, once standardized will be also be mapped with the CERF.

Another model, the one used by the ICAO, International Civil Aviation Organization, is provided as an attachment.

Both the CERF and the ICAO Language Proficiency scales have 6 levels and both describe level 6/C2 as the highest level, although the ICAO divides language skills into those most used by Speech-Language Pathologists and Audiologists –pronunciation, structure, vocabulary, fluency, comprehension and interactions, the last of which cannot be judged by the TOEIC which is a computer based test.

CGFNS also now provides a specific credential evaluation form for Speech-Language Pathologists and Audiologists while other credential evaluation agencies have general and course-by-course evaluations not specific to these professions. (page 24 of the CGFNS handbook).

## Recommendations

For the board's purposes, it might be useful to consider using the TOEIC, specifically the Speaking and Writing tests for foreign trained applicants, with the passing score criteria set at the highest proficiency level. At this level, there can be an influence of the first language but "pronunciation, stress, and intonation almost never interfere with understanding." (IACO chart)

Also, the board might consider adding CGFNS as a credential evaluation agency because it has a Speech-Language Pathology and Audiology evaluation form.

## **Agenda Item X.A.**

Section 2530.2 of the Business and Professions Code is amended to read:

As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. As used in this chapter or any other provision of law, “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board or any successor.

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e)(1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

## **Agenda Item X.A.**

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) “Speech-language pathology aide” means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i)(1) “Speech-language pathology assistant” means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a “clear” credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on

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Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to [Section 2530.5](#).

(j) An “audiologist” is one who practices audiology.

(k) “The practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

(l) “A dispensing audiologist” is a person who is authorized to sell hearing aids pursuant to his or her audiology license.

~~(m)~~(m) “Audiology aide” means any person, meeting the minimum requirements established by the board. An audiology aide may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that his or her employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

~~(n)~~(n) “Medical board” means the Medical Board of California.

~~(o)~~(o) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

~~(p)~~(p) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require

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the physical presence of the physician, but shall include all of the following:

- (1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.
- (2) Approval by the supervising physician of the written standardized protocol.
- (3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.
- (4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

Section 2539.1 of the Business and Professions Code is amended to read:

2539.1. (a) (1) On ~~and~~ or after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she has completed an application for a dispensing audiologist ~~certificate~~license, ~~paid~~pays all applicable fees, and ~~passed~~passes an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiologisty ~~certificate~~ license to a licensed audiologist who meets the requirements of paragraph (1).

(b) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Chapter 7.5 (commencing with Section 3300) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 3451, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's hearing aid license, the Board shall issue him or her a dispensing audiologyt ~~certificate~~ license pursuant to subdivision (a), paragraph (2). This provision does not prevent an audiologist who also has a hearing aid dispensing license from

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maintaining dual or separate licenses if he or she chooses to do so. A licensed audiologist whose license to sell hearing aids, issued pursuant to Chapter 7.5 (commencing with Section 3300), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

(c) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the provisions of subdivision (a)(1) for the purposes of obtaining the dispensing audiology license.

(d) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

## Hearing Aid Dispensing

### Business and Professions Code Chapter 7.5, Article 3, Section 3365.5

#### Conditions for Referral

**3365.5.** Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his best interests would be served if he would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

- (1) Visible congenital or traumatic deformity of the ear.
- (2) History of, or active drainage from the ear within the previous 90 days.
- (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap (when generally acceptable standards have been established).
- (7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
- (8) Pain or discomfort in the ear.

No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 3366. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 3366. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

(Amended by Stats. 1979, Ch. 970.)

## TITLE 16 CALIFORNIA CODE OF REGULATIONS

### ARTICLE 1. GENERAL PROVISIONS

#### § 1399.150.3. Delegation of Functions.

(a) Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the board delegates and confers upon the executive officer of the board, or in his or her absence, the executive director of the Medical Board, all functions necessary to the dispatch of the board in connection with investigative and administrative proceedings under the jurisdiction of the board including the authority to approve settlement agreements for the revocation, surrender or interim suspension of a license.

(b) The executive officer is further authorized, subject to the approval of the board, to investigate and evaluate each applicant for licensure under the Act; and to issue a license in conformance with the provisions of the Act and this chapter.

**Authority cited:** Sections 2018, 2531.4, 2531.5 and 2531.25, Business and Professions Code. Reference: Sections 2531.4 and 2533, Business and Professions Code.

#### **History**

1. Change without regulatory effect renumbering former section 1399.153 to section 1399.150.3 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

### ARTICLE 2. APPLICATION

#### § 1399.151. Applications for License.

(a) An application for a license as a speech-language pathologist or audiologist shall be filed with the board at its principal office.

(b) Every application shall be typed or written in ink, signed under the penalty of perjury and accompanied by the appropriate application fee and by such evidence, statements, or documents as therein required.

(c) The applicant shall be notified, in writing, of the results of the evaluation of the application for license if the application is rejected.

(d) An applicant shall be deemed to have abandoned his or her licensure application if the requirements for licensure are not completed within two years from the date on which application was filed unless the applicant has requested extension by the board. An application submitted subsequent to an abandoned application shall be treated as a new application.

(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice speech-language pathology and/or audiology safely because the applicant's ability to practice may be impaired due to mental illness, or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete.  
The report of the evaluation shall be made available to the applicant.

**Authority cited:** Section 2531.95, Business and Professions Code.  
**Reference:** Sections 2531.4 and 2532.1, Business and Professions Code.

### **History**

1. Renumbering of former section 1399.151 to section 1399.152, and renumbering of former section 1399.150(b) to section 1399.151 filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33)
2. Change without regulatory effect amending section filed 11-1-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).
3. Change without regulatory effect amending section filed 4-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 18).
4. Change without regulatory effect renumbering former section 1399.151 to section 1399.150.1 and renumbering former section 1399.154 to section 1399.151 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

## **ARTICLE 7.**

### **DENIAL, SUSPENSION AND REVOCATION OF LICENSURE**

#### **§ 1399.156. Unprofessional Conduct.**

Unprofessional conduct as set forth in Section 2533 of the code includes, but is not limited to the following:

- (a) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of the Act or these regulations.
- (b) Committing any corrupt act, or any abusive act against a patient, which is substantially related to the qualifications, functions or duties of a speech-language pathologist or audiologist.
- (c) Incompetence or negligence in the practice of speech-language pathology or audiology which has endangered or is likely to endanger the health, welfare, or safety of the public.
- (d) Commission of an act of sexual abuse or misconduct with a patient or client.

(e) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.

(f) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(g) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(h) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(i) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

**Authority cited:** Section 726 and 2531.95, Business and Professions Code. Reference: Section 2533, Business and Professions Code.

### **History**

1. Renumbering and amendment of former section 1399.156 to section 1399.15, and renumbering and amendment of former section 1399.157(a) to section 1399.156 filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

2. Change without regulatory effect amending section filed 11-1-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).

3. Change without regulatory effect amending first and last paragraphs filed 4-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 18).

4. Change without regulatory effect renumbering former section 1399.156 to section 1399.152 and renumbering former section 1399.180 to section 1399.156 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

**§ 1399.156.5. Required Actions Against Registered Sex Offenders**

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

(3) Deny any petition to reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

**Authority cited:** Section 2531.95, Business and Professions Code.  
**Reference:** Section 2533, Business and Professions Code.

[http://info.sen.ca.gov/pub/09-10/bill/asm/ab\\_2051-2100/ab\\_2072\\_bill\\_20100427\\_amended\\_asm\\_v96.html](http://info.sen.ca.gov/pub/09-10/bill/asm/ab_2051-2100/ab_2072_bill_20100427_amended_asm_v96.html)

**DRAFT**



Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

**UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND  
DISCIPLINARY GUIDELINES**

**July 16, 2004-May 2010**



Speech-Language Pathology and Audiology and  
Hearing Aid Dispensers Board

**UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND  
DISCIPLINARY GUIDELINES**

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# **UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES**

## **SPEECH-LANGUAGE PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID DISPENSERS**

Section 1399.155 of Division 13.4 of Title 16, Article 6 entitled "Disciplinary Guidelines" of the California Code of Regulations is amended to read:

### **Article 6. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**

1399.155. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall ~~consider the disciplinary guidelines entitled~~ comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Revised [Insert New Revision Date July 16, 2004](#)," that are hereby incorporated by reference. Deviation from these disciplinary guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; and evidentiary problems. Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.

Notwithstanding the Disciplinary Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Note: Authority cited: Sections 2531.95, Business and Professions Code; and Sections 11400.20, Government Code. Reference: Sections 2533 and 2533.1, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

## **UNIFORM STANDARDS FOR THOSE LICENSEES WHOSE LICENSE IS ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM**

The following standards shall be adhered to in all cases when a licensee's license is placed on probation due to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, however, the Board may impose more restrictive conditions if necessary to protect the public.

### **Clinical Diagnostic Evaluations:**

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

### **Clinical Diagnostic Evaluation Report:**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluation, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

### **Work Site Monitor Requirements:**

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored or be another health care professional if no monitor with like practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, at least once per week.
- b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; staff interviewed if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

If a licensee tests positive for a banned substance, the Board shall order the order the Respondent to cease practice during the clinical diagnostic evaluation, immediately contact the licensee and inform him or her that their license has been suspended and that they may not work until the order is lifted. The Board shall also immediately notify the licensee's employer that the licensee may not work until the order is lifted.

### **Major and Minor Violations**

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiply minor violations of probation conditions and terms;

4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Consequences for major violations include, but are not limited to:

1. Licensee will be ordered to cease practice.
  - a. The licensee must undergo a new clinical diagnostic evaluation, and
  - b. The licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
2. Termination of a contract/agreement.
3. Referral for disciplinary action, such a suspension, revocation, or other action as determined by the Board.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

Consequences for minor violations include, but are not limited to:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation or testing;
7. Other action as determined by the Board.

## **DRUG TESTING STANDARDS**

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year and at any time as directed by the board. After the first year, licensees, who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.
2. Drug testing may be required on any day, including weekends and holidays.
3. The scheduling of drug tests shall be done on a random basis, preferably by a computer program.
4. Licensees shall be required to make daily contact to determine if drug testing is required.
5. Licensees shall be drug tested on the date of notification as directed by the board.
6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
9. Collection of specimens shall be observed.
10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.
11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

## **DISCIPLINARY GUIDELINES**

The Board recognizes that these penalties and conditions of probation are guidelines, and that each disciplinary case must be assessed individually. If individual circumstances exist that justify omissions or deviations from these guidelines, the Board asks that these be explained by the Administrative Law Judge hearing the case. This will help the Board to better evaluate proposed decisions and to make decisions that accurately reflect the facts of each specific disciplinary matter.

Except where otherwise indicated, the following terms and conditions apply to speech-language pathologists, ~~and audiologists, dispensing audiologists as well as~~ speech-language pathology assistants and hearing aid dispensers.

### **STANDARD TERMS AND CONDITIONS OF PROBATION (1-13)**

#### 1. OBEY ALL LAWS:

Respondent shall obey all federal, state, and local laws, including all statutes and regulations governing the practice of the licensee.

Further, respondent shall, within five (5) days of any arrest, submit to the Board in writing a full and detailed account of such arrest.

#### 2. COMPLY WITH PROBATION PROGRAM

Respondent shall fully comply with the probation program established by the Board and shall cooperate with the representatives of the Board.

#### 3. CHANGE OF ADDRESS NOTIFICATION

Respondent shall, within five (5) days of a change of residence or mailing address, notify the Board in writing of the new address.

#### 4. OUT-OF-STATE RESIDENCY

Respondent shall notify the Board immediately in writing if he or she leaves California to reside or practice in another state.

Respondent shall notify the Board immediately upon return to California.

The period of probation shall be tolled during the time respondent is residing or practicing outside California.

#### 5. SUBMIT QUARTERLY WRITTEN DECLARATIONS

Respondent shall submit to the Board quarterly written declarations and verification of actions signed under penalty of perjury. These declarations shall certify and document compliance with all the conditions of probation.

#### 6. NOTIFY EMPLOYER OF PROBATION TERMS AND RESTRICTIONS

[Complies with Uniform Standard #3]

When currently employed, ~~or~~ applying for employment, or contracted to provide services as a speech-language pathologist, audiologist, dispensing audiologist, or speech-language pathology assistant, respondent shall notify his or her employer and supervisor or contractor of the probationary status of respondent's license. This notification to the respondent's current employer and supervisor, or contractor shall occur no later than the effective date of the Decision placing respondent on probation. The respondent shall notify any prospective employer and supervisor or contractor of his or her probationary status with the Board prior to accepting such employment. This notification shall ~~be by~~ include providing the employer or prospective employer with a copy of the Board's Decision placing respondent on probation.

The respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors and contractors.

The respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor.

Respondent shall cause each employer and supervisor or contractor to submit quarterly written declarations to the Board. These declarations shall include a performance evaluation.

Respondent shall notify the Board, in writing, of any change in his or her employment status, within ten (10) days of such change.

#### 7. INTERVIEWS WITH BOARD REPRESENTATIVES

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice. An initial probation visit will be required within sixty (60) days of the effective date of the Decision. The purpose of this initial interview is to introduce Respondent to the Board's

representatives and to familiarize Respondent with specific probation conditions and requirements. Additional meetings may be scheduled as needed.

#### 8. EMPLOYMENT LIMITATIONS

While on probation, Respondent may not work as a faculty member in an accredited or approved school of speech-language pathology or school of audiology.

#### 9. EDUCATIONAL COURSE

Respondent shall take and successfully complete course work substantially related to the violation. Within sixty (60) days of the effective date of the Decision, Respondent shall submit a plan to comply with this requirement. Respondent must obtain approval of such plan by the Board prior to enrollment in any course of study.

Respondent shall successfully complete the required remedial education no later than the end of the first year of probation. Upon successful completion of the course, Respondent shall cause the instructor to furnish proof to the Board immediately.

#### 9. CONSUMER RESTITUTION

Respondent shall make restitution to consumer(s) named in the decision in the amount of damage specified within one (1) year of the effective date of the decision.

#### 10. FUNCTION IN LICENSED CAPACITY

During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity or his or her license is temporarily suspended, the period of probation shall be tolled during that time.

#### 11. MAINTAIN A VALID LICENSE

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

~~Should Respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement, Respondent's license shall be subject to any and all~~

~~terms of this probation not previously satisfied.~~

## 12. VOLUNTARY LICENSE SURRENDER

Following the effective date of this probation, if Respondent ceases practicing for any reason, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily surrender his/her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrendered license, Respondent will no longer be subject to the terms and conditions of probation.

## 123. VIOLATION OF PROBATION

If Respondent violates probation in any respect, the Board may seek to revoke probation and carry out the disciplinary order that was stayed. The Respondent shall receive prior notice and the opportunity to be heard. If a Petition to Revoke Probation, an Accusation, a Petition to Vacate Stay or other formal disciplinary action is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended and Respondent shall comply with all probation conditions until the matter is final.

## 134. COMPLETION OF PROBATION

Respondent's license will be fully restored upon successful completion of probation.

## **OPTIONAL TERMS AND CONDITIONS OF PROBATION (14-28)**

## 145. SUBMIT TO EXAMINATION BY PHYSICIAN

Within sixty (60) days of the effective date of the Decision, Respondent shall submit to a physical examination by a physician and surgeon of his or her choice who meets minimum criteria established by the Board. The physician and surgeon shall must be licensed in California and Board certified in Family Practice, Internal Medicine, or a related specialty. The purpose of this examination shall be to determine Respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Decision prior to the examination. Cost of such examination shall be paid by Respondent.

Respondent shall cause the physician and surgeon to complete a written medical

report. This report shall be submitted by the physician and surgeon to the Board within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that Respondent is not physically fit to practice or can only practice with restrictions, the ~~examining~~ physician and surgeon shall notify the Board within three (3) working days. The Board shall notify the respondent in writing of the ~~examining~~ physician's and surgeon's determination of unfitness to practice and shall order the Respondent to cease practice or place restrictions on Respondent's practice. ~~licensed activities as a condition of probation.~~ Respondent shall comply with any order to cease practice or restriction of his or her practice ~~this condition~~ until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent in writing. ~~Respondent shall document compliance in the manner required by the Board.~~

#### 156. PSYCHOLOGICAL EVALUATION

Respondent shall participate in a psychiatric or psychological evaluation. This evaluation shall be for the purpose of determining Respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the evaluation. The evaluation shall be performed by a ~~psychiatrist~~ physician and surgeon licensed in California and Board certified in psychiatry or by a clinical psychologist licensed in California approved by the Board.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall provide to the Respondent, the name of one or more proposed evaluators ~~for prior approval by the Board~~ approved to conduct the psychological evaluation.

Respondent shall fully cooperate with the provision and undergo a psychiatric or psychological evaluation within thirty (30) days of the effective date of the Decision. ~~The cause the evaluator to~~ shall submit to the Board a written psychiatric or psychological report evaluating Respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ~~ninety (90)~~ sixty (60) days from the effective date of the Decision. Cost of ~~such~~ the evaluation shall be paid by the Respondent.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the evaluator shall verbally notify the Board within ~~three (3)~~ one (1) working days. The Board shall notify the Respondent in writing of the evaluator's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a

condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

#### 167. PSYCHOTHERAPY

Respondent shall participate in ongoing psychotherapy with a California licensed ~~psychiatrist~~ physician and surgeon who is Board certified in Psychiatry, clinical psychologist, marriage, family, and child counselor, or licensed clinical social worker approved by the Board. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall submit to the Respondent the name of one or more proposed therapists ~~for prior approval~~. to provide on-going therapy ~~Upon approval by the Board,~~ Respondent shall commence psychotherapy within ten (10) days of receiving notification by the Board of the name's of approved therapists. Respondent shall provide the therapist with a copy of the Board's Decision no later than the first counseling session.

If the therapist finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board within three (3) working days. The Board shall notify the Respondent in writing of the therapist's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent.

~~Respondent shall cause~~ The therapist shall ~~to~~ submit quarterly written declarations to the Board concerning Respondent's fitness to practice and progress in treatment.

#### 178. CLINICAL DIAGNOSTIC EVALUATION- [Complies with Uniform Standards 1&2]

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation.

Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, Respondent shall cease practice during the clinical diagnostic evaluation and review of the evaluation by Board staff.

While awaiting the results of the clinical diagnostic evaluation, the Respondent shall be randomly drug tested at least two (2) times per week.

#### 17. REHABILITATION PROGRAM

~~Within thirty (30) days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.~~

~~Components of the treatment contract shall be relevant to the violation and to the Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs.~~

~~The cost for participation in this program shall be paid for by Respondent.~~

#### 189. ATTEND CHEMICAL DEPENDENCY SUPPORT AND RECOVERY GROUPS- [Complies with Uniform Standard #5]

Within five (5) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Documentation of attendance shall be submitted by the Respondent with each quarterly written report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board in writing that attendance is no longer required.

#### 1920. ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bonafide illness.

#### 201. ABSTAIN FROM USE OF ALCOHOL

Respondent shall completely abstain from the intake use of alcoholic beverages during the period of probation.

#### 242. SUBMIT BIOLOGICAL FLUID SAMPLES- [Complies with Uniform Standards #4 & #8]

Respondent shall immediately submit to random and directed biological fluid testing paid for by Respondent, at the request of the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation and at minimum of fifty (50) random tests per year thereafter for the duration of the probationary term. Positive test results will be reported to the Board

Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

If Respondent tests positive for a banned substance, Respondent shall cease practice upon order of the Board.

#### 223. TAKE AND PASS LICENSURE EXAMINATION

Option #1:

Respondent shall take and pass the first administration after the effective date of this decision of the written and/or practice licensure examination as designated by the Board. If Respondent fails the examination, Respondent must take and pass a re-examination consisting of the written and/or practical licensure examination which is administered for the purpose of licensure. If respondent is required to take and pass both the written and practical examinations, the written

examination must be taken and passed prior to taking the practical examination. The waiting period between repeat written examinations shall be at least two weeks, until the examinations are passed. Respondent shall pay all examination fees and pass the required examinations no later than 100 days prior to the termination date of probation.

Option #2 (Condition Precedent):

Before resuming practice, Respondent shall take and pass the written and/or practical licensure examination(s) currently required of new applicants prior to resuming practice. Respondent shall pay all examination fees.

234. SUPERVISED PRACTICE

The Board shall be informed and approve of the type of supervision or monitoring provided while the Respondent is functioning as a licensed speech-language pathologist, licensed audiologist or dispensing audiologist, or speech-language pathology assistant.

Respondent may not function as a supervisor for any required professional experience (RPE) candidate or any speech-language pathology assistant or aide, during the period of probation or until approved by the Board.

245. WORKSITE MONITOR

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

256. RESTRICTIONS ON LICENSED PRACTICE

Respondent shall practice only with a restricted patient population, in a restricted practice setting, or engage in limited practice procedures. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in the manner required by the Board.

## 267. RECOVERY OF COSTS

Where an order for recovery of costs is made, the Respondent shall make timely payments as directed in the Decision.

## 278. ACTUAL SUSPENSION OF LICENSE

As part of probation, respondent is suspended from practice for \_\_\_\_ months beginning the effective date of this decision. Respondent shall be responsible for informing his or her employer of the Board's decision, the reasons for the length of suspension. Prior to the lifting of the actual suspension of license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board. ~~Respondent shall provide documentation of completion of educational courses or treatment rehabilitation if required.~~

## **RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION FOR INITIAL LICENSURE AND REINSTATEMENT OF LICENSE**

In order to provide clarity and consistency in its decisions, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board recommends the following language in proposed decisions or stipulated agreements for applicants who hold a license in another state and for petitioners for reinstatement who are issued a license that is placed on probation.

Suggested language for applicants who are placed on probation:

"The application of respondent \_\_\_\_\_ for licensure is hereby granted. Upon successful completion of all licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:"

Suggested language for applicants who are licensed in another state and are placed on probation:

"The application of respondent for licensure is hereby granted and a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of \_\_\_\_ years on the following terms and conditions:"

Suggested language for reinstatement of licensure with conditions of probation:

"The application of respondent \_\_\_\_\_ for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of \_\_\_\_ years on the following terms and conditions:"

## **PENALTIES FOR DISCIPLINARY ACTIONS**

Except where otherwise indicated, the following penalties apply to speech-language pathologists, audiologists, dispensing audiologists and speech-language pathology assistants

### **UNPROFESSIONAL CONDUCT (GENERAL)**

Sections 480 & 2533 of the Business and Professions Code  
Section 1399.156 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) If warranted: <u>Supervised Practice</u> (23) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

### **UNPROFESSIONAL CONDUCT -- CONVICTION OF A CRIME OR ACT INVOLVING DISHONESTY, FRAUD, OR DECEIT**

Sections 480(a)(1), 480(a)(2), 490 & 2533(a) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) If warranted: <u>Supervised Practice</u> (23) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

### **UNPROFESSIONAL CONDUCT -- SECURING LICENSE UNLAWFULLY**

Sections 498 & 2533(b) of the Business and Professions Code

MINIMUM	Revocation or Denial
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Note: The severity of this offense warrants revocation or denial in all cases.

**MENTAL OR PHYSICAL ILLNESS**

**Section 820 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms of Probation (1-134)</u>
	<u>Psychological Evaluation</u>
	<u>Physician Exam</u>
	<u>If warranted, Suspension of 60 Days to 90 Days</u>
	<u>If warranted, Worksite Monitoring</u>

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: denial of problem, unstable employment history, prior disciplinary action, multiple violations, patient harm and danger to self and/or others.

**UNPROFESSIONAL CONDUCT -- USE OR ADMINISTERING TO ONESELF ANY CONTROLLED SUBSTANCE**

**Section 2533(c)(1) of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	<u>3 Years Probation</u>
	<u>Standard Terms of Probation (1-134)</u>
	<u>Physician Exam (14)</u>
	<u>Clinical Diagnostic Evaluation (17)</u>
	<u>Support and Recovery Group (18)</u>
	<u>Abstain from Drugs and Alcohol (19-20)</u>
	<u>Submit Biological Fluids (21)</u>
	<u>Worksite Monitor (24)</u>
	<u>Supervised Practice (23)</u>
	<u>Suspension (27)</u>
	<u>If warranted:</u>
	<u>Psychological Evaluation (15)</u>
	<u>Psychotherapy (16)</u>
	<u>Drug and Alcohol Rehabilitation (17-)</u>
	<u>Restricted Practice (25)</u>
	<u>Suspension (26)</u>

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

**UNPROFESSIONAL CONDUCT -- USE OF ANY DANGEROUS DRUGS SPECIFIED IN SECTION 4022 OF BUSINESS AND PROFESSION CODE, OR USE OF ALCOHOLIC BEVERAGES EXTENT IMPAIRS ABILITY TO PRACTICE SAFELY**

Section 2533(c)(2) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-134) Physician Exam (14) <u>Clinical Diagnostic Evaluation</u> (17) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) <u>Supervised Practice</u> (23) <u>Worksite Monitor</u> (24) <u>Suspension</u> (27) If warranted: Psychological Evaluation (15) Psychotherapy (16) Drug and Alcohol Rehabilitation (17-) Restricted Practice (25) Suspension (26)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

**UNPROFESSIONAL CONDUCT -- MORE THAN ONE MISDEMEANOR OR ANY FELONY INVOLVING USE, CONSUMPTION, OR SELF-ADMINISTRATION OF ANY CONTROLLED SUBSTANCES, ALCOHOL, OR DANGEROUS DRUG**

Section 2533(c)(3) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) <u>Clinical Diagnostic Evaluation</u> (17) Support and Recovery Group (18)

Abstain from Drugs and Alcohol (19-20)  
 Submit Biological Fluids (21)  
Worksite Monitor (24)  
 Suspension (27)  
 If warranted:  
     Physical Examination (14)  
     Psychological Evaluation (15)  
     ~~Drug and Alcohol Rehabilitation (17)~~  
     Supervised Practice (23)  
     Restricted Practice (25)  
     ~~Suspension (26)~~

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to consider are; conviction of possession of drugs for sale, contribution to delinquency of minors, and other similar offenses.

**UNPROFESSIONAL CONDUCT -- ADVERTISING**

Section 1399.156.4 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) If warranted: <u>Supervised Practice</u> (23)

**UNPROFESSIONAL CONDUCT -- COMMITTING A DISHONEST OR FRAUDULENT ACT SUBSTANTIALLY RELATED TO QUALIFICATIONS, FUNCTIONS, OR DUTIES OF LICENSEES (Non-Drug Related)**

Section 2533(e) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) <u>Supervised Practice</u> (23) If warranted: Physician Examination (14) Psychological Evaluation (15) Restricted Practice (25) Suspension ( <u>27</u> )

**UNPROFESSIONAL CONDUCT AIDING AND ABETTING IN  
THE COMMISSION OF A VIOLATION OF  
AN ACT OR REGULATION**

Section 1399.156(a) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134)

**UNPROFESSIONAL CONDUCT-CORRUPT OR ABUSIVE  
ACT AGAINST A PATIENT**

Section 1399.156(b) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-134) <u>Supervised Practice</u> (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (25) Suspension (27)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.

**UNPROFESSIONAL CONDUCT- INCOMPETENCE OR NEGLIGENCE**

Section 1399.156(c) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-134) <u>Supervised Practice</u> (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (25) Suspension (27)





Worksite Monitor (24)  
Restricted Practice (25)  
Suspension (27)

**PENALTIES FOR DISCIPLINARY ACTIONS**

Except where otherwise indicated, the following terms and conditions apply to hearing aid dispensers and dispensing audiologists unless noted

**SEXUAL MISCONDUCT**

Section 726 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	<u>3 Years Probation</u> <u>Standard Terms of Probation (1-14)</u> <u>Supervised Practice (24)</u> <u>If warranted:</u> <u>    Psychological Evaluation (16)</u> <u>    Psychotherapy (17)</u> <u>    Restricted Practice (26)</u> <u>    Suspension (28)</u>

**MENTAL OR PHYSICAL ILLNESS**

Section 820 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	<u>5 Years Probation</u> <u>Standard Terms of Probation (1-14)</u> <u>Psychological Evaluation (16)</u> <u>Physician Exam (15)</u> <u>If warranted:</u> <u>    Suspension (28)</u> <u>    Monitoring (25)</u>

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: denial of problem, unstable employment history, prior disciplinary action, multiple violations, patient harm and danger to self and/or others.

**UNLICENSED PRACTICE**

**Section 3350 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>

**TEMPORARY LICENSEE AS SOLE PROPRIETOR, MANAGER, OR OPERATOR OR CLAIMING TO HOLD LICENSE AS A HEARING AID DISPENSER**

**Section 3359 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>License Denied</u>
<u>MINIMUM</u>	<u>License Issued, 2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>

**PRACTICING WITHOUT NOTIFYING THE BOARD OF BUSINESS ADDRESS\***

**Section 3362 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Suspension, Stayed with 2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
<u>MINIMUM</u>	<u>Suspension, Stayed with 1 Year Probation</u>
	<u>Standard Terms of Probation (1-14)</u>

**PRACTICING WITHOUT PROPERLY POSTING LICENSE**

**Section 3363 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Suspension, Stayed with 2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
<u>MINIMUM</u>	<u>Public Repeval</u>

**PRACTICING FROM A BRANCH OFFICE WHICH IS NOT LICENSED**

**Section 3364 of the Business and Professions Code**

MAXIMUM \_\_\_\_\_ Suspension, Stayed with 2 Years Probation  
\_\_\_\_\_ Standard Terms of Probation (1-14)  
\_\_\_\_\_ If warranted:  
\_\_\_\_\_ Suspension (28)  
\_\_\_\_\_ Written Examination (23)

MINIMUM \_\_\_\_\_ Suspension, Stayed with 1 Year Probation  
\_\_\_\_\_ Standard Terms of Probation (1-14)

**FAILURE TO DELIVER PROPER RECEIPT**

**Section 3365 of the Business and Professions Code**

MAXIMUM \_\_\_\_\_ 1 Year Suspension, Stayed with 3 Years Probation  
\_\_\_\_\_ If warranted:  
\_\_\_\_\_ Standard Terms of Probation (1-14)  
\_\_\_\_\_ Suspension (28)  
\_\_\_\_\_ Written Examination (23)

MINIMUM \_\_\_\_\_ Public Repeoval

**FAILURE TO MAKE PHYSICIAN REFERRAL**

**Section 3365.5 of the Business and Professions Code**

MAXIMUM \_\_\_\_\_ Revocation

MINIMUM \_\_\_\_\_ 5 Years Probation  
\_\_\_\_\_ Standard Terms of Probation (1-14)  
\_\_\_\_\_ If warranted:  
\_\_\_\_\_ Suspension (28)  
\_\_\_\_\_ Written Examination (23)  
\_\_\_\_\_ Monitoring (25)

**UNAUTHORIZED SELLING OF A HEARING AID TO A PERSON UNDER  
SIXTEEN(16) YEARS OF AGE\***

**Section 3365.6 of the Business and Professions Code**

MAXIMUM \_\_\_\_\_ Revocation

MINIMUM \_\_\_\_\_ 5 Years Probation  
\_\_\_\_\_ Standard Terms of Probation (1-14)  
\_\_\_\_\_ If warranted:  
\_\_\_\_\_ Suspension (28)  
\_\_\_\_\_ Written Examination (23)

Monitoring (25)

**FAILURE TO MAINTAIN REQUIRED RECORDS**  
**Section 3366 of the Business and Professions Code**

MAXIMUM 1 year suspension, stayed with 3 years probation  
Standard Terms of Probation (1-14)  
If warranted:  
\_\_\_\_\_  
Suspension (28)  
\_\_\_\_\_  
Written Examination (23)  
\_\_\_\_\_  
Monitoring (25)

MINIMUM Public Repeoval

**THE IMPROPER OR UNNECESSARY FITTING OF A HEARING AID**  
**Section 3401(a) of the Business and Professions Code**

MAXIMUM Revocation

MINIMUM 5 Years Probation  
Standard Terms of Probation (1-14)  
If warranted:  
\_\_\_\_\_  
Suspension (28)  
\_\_\_\_\_  
Written Examination (23)  
\_\_\_\_\_  
Monitoring (25)

**GROSS NEGLIGENCE**  
**Section 3401(b) of the Business and Professions Code**

MAXIMUM Revocation

MINIMUM 5 Years Probation  
Standard Terms of Probation (1-14)  
If warranted:  
\_\_\_\_\_  
Suspension (28)  
\_\_\_\_\_  
Written Examination (23)  
\_\_\_\_\_  
Monitoring (25)

**REPEATED NEGLIGENT ACTS**  
**Section 3401(c) of the Business and Professions Code**

MAXIMUM Revocation

MINIMUM 5 Years Probation  
Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Written Examination (23)

Monitoring (28)

**CRIMINAL CONVICTION**

Section 3401(d) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation

Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Monitoring (25)

**OBTAINING A LICENSE BY FRAUD**

Section 3401(e) of the Business and Professions Code

MINIMUM Revocation

**USING THE TERM "DOCTOR", "PHYSICIAN" OR "AUDIOLOGIST" UNLESS  
AUTHORIZED**

Section 3401(f) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation

Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)

**FRAUD OR MISREPRESENTATION IN PRACTICE**

Section 3401(g) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation

Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)



**PURCHASE OR PROCURE BY BARTER A LICENSE WITH THE INTENT TO PRACTICE**

Section 3422 of the Business and Professions Code

MINIMUM \_\_\_\_\_ Denial of right to seek licensure as a hearing aid  
\_\_\_\_\_ dispenser pursuant to B & P 480 (2) (3).

**ALTER WITH FRAUDULENT INTENT ANY MATERIAL ISSUED BY THE BOARD**

Section 3423 of the Business and Professions Code

If done by a temporary licensee:

MINIMUM \_\_\_\_\_ Revocation of temporary license and denial of  
\_\_\_\_\_ permanent licensure.

If done by a permanent licensee:

MAXIMUM \_\_\_\_\_ Revocation

MINIMUM \_\_\_\_\_ 5 Years Probation  
\_\_\_\_\_ Standard Terms of Probation (1-14)  
\_\_\_\_\_ If warranted:  
\_\_\_\_\_ Suspension (28)  
\_\_\_\_\_ Written Examination (23)  
\_\_\_\_\_ Monitoring (25)

**LYING ON THE LICENSE APPLICATION**

Section 3426 of the Business and Professions Code

MINIMUM \_\_\_\_\_ License denial pursuant to B & P 480 (c)

**PRACTICING WITHOUT A VALID LICENSE\***

Section 3427 of the Business and Professions Code

MAXIMUM \_\_\_\_\_ Revocation

MINIMUM \_\_\_\_\_ 2 Years Probation  
\_\_\_\_\_ Standard Terms of Probation (1-14)  
\_\_\_\_\_ If warranted:  
\_\_\_\_\_ Written Examination (23)

**UNLAWFUL PRACTICE**

**Section 3427.5 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
	<u>Monitoring (25)</u>

**ADVERTISING WITHOUT A VALID LICENSE\***

**Section 3428 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>3 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
	<u>Monitoring (25)</u>

**PRACTICING WITHOUT A BUSINESS ADDRESS**

**Section 3429 of the Business and Professions Code**

<u>MAXIMUM</u>	<u>Suspension Stayed, with 2 Years Probation</u>
	<u>Suspension Stayed, with 3 Years Probation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms of Probation (1-13)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>

\*Does not apply to a Dispensing Audiologist

[http://info.sen.ca.gov/pub/09-10/bill/sen/sb\\_1151-1200/sb\\_1172\\_bill\\_20100511\\_amended\\_sen\\_v96.html](http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1151-1200/sb_1172_bill_20100511_amended_sen_v96.html)

[http://info.sen.ca.gov/pub/09-10/bill/sen/sb\\_1151-1200/sb\\_1172\\_bill\\_20100511\\_amended\\_sen\\_v96.html](http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1151-1200/sb_1172_bill_20100511_amended_sen_v96.html)

[http://info.sen.ca.gov/pub/09-10/bill/sen/sb\\_1251-1300/sb\\_1282\\_bill\\_20100428\\_amended\\_sen\\_v97.html](http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1282_bill_20100428_amended_sen_v97.html)

[http://info.sen.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/ajr\\_31\\_bill\\_20100406\\_amended\\_asm\\_v98.html](http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ajr_31_bill_20100406_amended_asm_v98.html)

[http://info.sen.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/ajr\\_34\\_bill\\_20100217\\_introduced.html](http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ajr_34_bill_20100217_introduced.html)



AGENDA ITEM

MEETING DATE:

# LICENSE STATISTICAL REPORT

February 1, 2010 through April 30, 2010

## TOTAL NUMBER OF LICENSEES

<b>Speech-Language Pathology</b> .....	<b>18,856</b>
Inactive .....	1,137
CPD Hold .....	224
Delinquent .....	1,821
Cancelled .....	4,577
<b>Audiology</b> .....	<b>1,495</b>
Inactive .....	146
CPD Hold .....	27
Delinquent .....	276
Cancelled .....	856
<b>Speech-Language Pathology Assistants</b> .....	<b>1,087</b>
Inactive .....	40
CPD Hold .....	25
Delinquent .....	165
Cancelled .....	51
AA/AS .....	326
BA/BS .....	654
BA/BS EQUIVALENT.....	34
(97 SLPA's not in database for degree designation)	
<b>RPE Temporary License</b> .....	<b>628</b>
Speech-Language Pathology .....	595
Audiology .....	33
<b>Registered Aides</b> .....	<b>221</b>
Speech-Language Pathology .....	178
Audiology .....	54

## LICENSES ISSUED

Speech-Language Pathology.....	105
Audiologist .....	9
SLP RPE Applicants .....	98
AU RPE Applicants.....	0
Speech-Language Pathology Assistants .....	46

## PENDING APPLICATIONS

Regular / Equivalency Applicants .....	75
Speech-Language Pathology Assistants .....	87

## LETTERS OF GOOD STANDING



**FY 2009-2010 ENFORCEMENT STATISTICS**

**SPEECH-LANGAUGE PATHOLOGY & AUDIOLOGY**  
 FEBRUARY 1, 2010 THROUGH APRIL 30, 2010

**COMPLAINT ACTIVITY**

Opened .....	36
Closed .....	16
Pending .....	58

**VIOLATION TYPE OF COMPLAINTS OPENED**

Discipline by another State/Agency .....	0
Incompetence/Negligence .....	2
Unprofessional Conduct .....	2
Unlicensed/Unregistered Activity .....	6
Criminal Charges/Convictions .....	9
Substance Abuse .....	0
Fraud .....	2
Non-Jurisdictional .....	0
Other .....	15

Processing Times for Closed Complaints

Months:

0-3 .....	10
4-6 .....	4
7-9 .....	1
10-12 .....	1
12+ .....	0

**INVESTIGATION ACTIVITY**

Opened .....	2
Closed .....	1
Pending .....	21

Processing Times for Closed Investigations

Months:

0-3 .....	1
4-6 .....	0
7-12 .....	0
13-24 .....	0
25-36 .....	1

**DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED**

No Violation .....	3
Information on File .....	6
Insufficient Evidence .....	2
Subject Educated .....	1
Non-Jurisdictional .....	0
Compliance Obtained .....	0
Referral to Government Agency .....	0
Other .....	1
Citation .....	0
Conditional License Issued .....	0
Referred to AG/DA .....	3

**PROBATION CASES**

Open .....	10
Tolled .....	6
Conditional Licenses .....	8

**CITATIONS ISSUED** ..... 0

**ATTORNEY GENERAL (AG) CASE ACTIVITY**

Opened .....	3
Closed .....	0
Pending .....	14

Processing Times for Closed AG Cases

Years:

0-1 .....	0
1-2 .....	0
2-3 .....	0
3-4 .....	0
4 .....	0

**ADMINISTRATIVE FILINGS**

Accusations .....	0
Statement of Issues .....	0
Petitions for Penalty Relief .....	0
Petition for Psychiatric Evaluation .....	0

**ADMINISTRATIVE FINAL DECISIONS**

Revocation .....	0
Revocation, Stayed, Probation .....	0
Revocation, Stayed, Probation, Suspended .....	0
License Surrender .....	0
License Denied .....	0
Petitions for Penalty Relief Denied .....	0
Petitions for Penalty Relief Granted .....	0
Petitions for Penalty Relief Withdrawn .....	0
Reprimands/Reprovals .....	0
ISO's Ordered .....	0
Declined by Attorney General .....	0
Conditional License Issued .....	0

**DECISIONS - TYPE OF VIOLATION**

Discipline by another State/Agency .....	0
Incompetence/Negligence .....	0
Unprofessional Conduct .....	0
Unlicensed/Unregistered Activity .....	0
Criminal Charges/Convictions .....	0
Fraud .....	0
Other .....	0

**Total: 16**



**ENFORCEMENT STATISTICS**

HEARING AID DISPENSING, FY 2009-2010  
 FEBRUARY 1 THROUGH APRIL 30, 2010

**COMPLAINT ACTIVITY**

Opened .....	41
Closed .....	32
Pending .....	69

**VIOLATION TYPE OF COMPLAINTS OPENED**

Discipline by another State/Agency .....	0
Incompetence/Negligence .....	2
Unprofessional Conduct .....	31
Unlicensed/Unregistered Activity .....	5
Criminal Charges/Convictions .....	2
Substance Abuse .....	0
Fraud .....	1
Non-Jurisdictional .....	0
Other .....	0

Processing Times for Closed Complaints

Months:

0-3 .....	8
4-6 .....	4
7-9 .....	0
10-12 .....	0
12+ .....	0

**INVESTIGATION ACTIVITY**

Opened .....	3
Closed .....	20
Pending .....	20

Processing Times for Closed Investigations

Months:

0-3 .....	0
4-6 .....	0
7-12 .....	13
13-24 .....	6
25-36 .....	1

**DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED**

No Violation .....	2
Information on File .....	11
Insufficient Evidence .....	2
Subject Educated .....	4
Non-Jurisdictional .....	1
Compliance Obtained .....	0
Referral to Government Agency .....	0
Other .....	5
Citation .....	0
Conditional License Issued .....	0
Referred to AG/DA .....	5
Mediated .....	2

<b><u>PROBATION CASES</u></b> .....	3
Open .....	0
Tolled .....	0
Conditional Licenses .....	0

<b><u>CITATIONS ISSUED</u></b> .....	0
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**ATTORNEY GENERAL (AG) CASE ACTIVITY**

Opened .....	0
Closed .....	0
Pending .....	6

Processing Times for Closed AG Cases

Years:

0-1 .....	0
1-2 .....	0
2-3 .....	0
3-4 .....	0
4 .....	0

**ADMINISTRATIVE FILINGS**

Accusations .....	0
Statement of Issues .....	0
Petitions for Penalty Relief .....	0
Petition for Psychiatric Evaluation .....	0

**ADMINISTRATIVE FINAL DECISIONS**

Revocation .....	0
Revocation, Stayed, Probation .....	0
Revocation, Stayed, Probation, Suspended .....	0
License Surrender .....	0
License Denied .....	0
Petitions for Penalty Relief Denied .....	0
Petitions for Penalty Relief Granted .....	0
Petitions for Penalty Relief Withdrawn .....	0
Reprimands/Reprovals .....	0
ISO's Ordered .....	0
Declined by Attorney General .....	0
Conditional License Issued .....	0

**DECISIONS - TYPE OF VIOLATION**

Discipline by another State/Agency .....	0
Incompetence/Negligence .....	0
Unprofessional Conduct .....	0
Unlicensed/Unregistered Activity .....	0
Criminal Charges/Convictions .....	0
Fraud .....	0
Other .....	0

**Total: 32**