

**SPEECH-LANGUAGE PATHOLGOY AND AUDIOLOGY
AND HEARING AID DISPENSERS 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.~~

(1) Not more than three (3) hours of continuing education may be credited in any of the following 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.

(2) Not more than three (3) hours of the required continuing education may be credited for self-study or correspondence-type coursework, e.g., tape recorded courses, home study materials, videotape materials, or computer courses.

(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) 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, 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.

Working document

PROPOSAL TO CLARIFY RETURNS/REFUNDS/AMENDMENT TO TRIAL PERIOD AS THEY PERTAIN TO THE SONG-BEVERLY CONSUMER WARRANTY ACT ON HEARING AID PURCHASE AGREEMENT

Comment [RG1]:

“If the buyer returns the device within the period specified in the written warranty, the seller shall, **without charge** and within a **reasonable time**, adjust the device or, if appropriate, replace it with a device that is specifically fit for the **particular needs** of the buyer. 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**, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer **all payments** and any ***assistive device*** or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be canceled all contracts, instruments, and security agreements executed by the buyer in connection with the sale. When a sale is rescinded under this section, **no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.**”
*****highlighted areas need to be amended**

*note for clarification-“return to buyer all payments and ANY ASSISTIVE DEVICE (why is seller returning “assistive device” to buyer?)

Summary of other states’ return/refund policies:

FLORIDA:

- suspend trial period 1 day per 24 hour period hearing aid is not in purchaser’s possession
- dispenser may retain charges for earmolds, services provided, cancellation fee.

OREGON:

- purchase price is refund minus “normal wear and tear”
- dispenser may retain a portion of purchase price as specified by rule under Oregon Health Licensing Agency

ILLINOIS:

- if hearing aid is returned for adjustment or repair, the refund period will be extended, affording the buyer the remainder of the refund period.

Issues:

- NEED TO DEFINE COMPLETION OF FITTING
- DEFINE SPECIFIC NEEDS AS STATED IN CALIFORNIA CIVIL CODE SECTION 1793.02 OF SBCWA.
- DEFINE ADJUSTMENT
- NEED FOR DOCUMENTATION OF ADJUSTMENTS, REPLACEMENTS

Working document

Specify charges for non-refundable fees incurred on dispenser: earmolds, shipping, restocking fee if any. Allow for documentation of what fees are not refundable at the time the hearing aids are delivered.

CHALLENGES FOR DISPENSER

- loss of revenue for returned earmolds, non-refundable shipping/handling fees, restocking fees
- determining maximum number of hearing aids patient is permitted to try and timeframe within which this may occur
- determining maximum timeframe within which patient may modify original aid or return original aid and start new trial period. (90 days, 6 months, one year???) ~needs to be specified on “back page” of purchase agreement
- consumer who orders products and cancels fitting (by phone) PRIOR to agreed upon fitting date
- consumer who decides not to take hearing aids DURING the initial fitting and orientation
- California Civil Code Section 1795.6 allows for tolling of the 30 days allowing 30 day trial to be stopped and started. (seems open ended)- What happens when this period exceeds product return period as determined by HA manufacturer?

GENERAL QUERY:

what are other dispensers’ practices with regard to deposit/down payment/pre-purchase documentation?

CHALLENGES FOR CONSUMER

- some consumers want an unlimited amount of products for trial
- trial period should not be left open ended by dispenser when returning one product and trying another
- consumer needs to understand that 30 day trial period does not start again after each adjustment or repair
- keeping track of documentation (can be addressed with “backpage” solution)

GENERAL QUERY:

ACTUAL REPAIRS DURING THE ORIGINAL WARRANTY PERIOD ARE NOT RELATED TO OR AFFECTED BY ISSUES PERTAINING TO TRIAL PERIOD. CA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR STIPULATES WARRANTY PERIOD WILL BE EXTENDED FOR NUMBER OF WHOLE DAYS THE PRODUCT HAS BEEN OUTSIDE OF THE BUYER’S HANDS. Is this an issue we need to discuss????? Have any dispenser’s been challenged about this?

Working document

PROPOSED "BACKPAGE" WORKING DOCUMENT FOR CONSUMER PURCHASE AGREEMENT TO BE KEPT IN PATIENT CHART AND UPDATED DURING THE COURSE OF TRIAL PERIOD. TO BE INITIALED BY PURCHASER AFTER EACH FOLLOW-UP APPOINTMENT DURING TRIAL PERIOD.

PATIENT NAME:

ORIGINAL DATE OF SALE:

DATE OF ORIGINAL TRIAL PERIOD END DATE:

MAXIMUM EXTENSION DATE OR NUMBER OF PRODUCTS PERMITTED FOR TRIAL AS DETERMINED BY DISPENSER (does CA law allow for unlimited number?)

NON-REFUNDABLE ITEMS:

Earmold(s) (amount not to exceed \$35 per mold)

Manufacturer shipping/handling fees (not to exceed \$18.00 total)

Manufacturer restocking fee (not to exceed \$100 per aid)

After sale added options:

(canal lock/t-coil/chargeable shell color change)

Date of first follow-up appointment: _____

Dates of subsequent appointments within trial period:

Final follow-up appointment _____ (*patient has decided to keep product/s*)

Date aid sent for remake/repair: _____

Date earmold(s) sent for remake: _____

Date aid/earmold picked up by patient after remake/repair _____

(*aid/earmold must be picked up within ...# days after patient is notified*)

New trial period end date: _____ (=orig TP end date + out time)

.....
(IN THE EVENT A HEARING AID IS EXCHANGED FOR A DIFFERENT MODEL, NEW PURCHASE AGREEMENT WILL BE GENERATED WITH UPDATED PRODUCT/PRICING INFORMATION ALONG WITH FITTING DATE. PATIENT WILL PAY OR BE REIMBURSED FOR DIFFERENCE -when?)

Date aid exchanged for different model _____

New trial period end date: _____

Proposed requirements for contracts for hearing aid dispensers to replace Song Beverly requirements

The proposal is suggested so that both the hearing aid dispenser and the consumer will have a clear understanding of each of their rights and responsibilities. At present the lack of clarity of Song Beverly is a detriment to both the consumer and the professional. In general it should serve both parties to have clear language on the contract. The proposal is that once the consumer has had the hearing aid in their possession for 30 days it is deemed to be theirs and not returnable(unless the dispenser decides to do so of their own choosing). It would seem that this approach is much clearer if spelled out in that way and not try to define completion of fitting or trying to decide if it was fit for their particular needs. These two terms have too many interpretations and have led to many problems for both parties as well as the Board in the past.

Definition of Fitting – the date when the customer first takes possession of the hearing aids.

Definition of fitting period – Once the customer has had possession of the hearing aids for 30 days. If the hearing aid has to go back to the manufacturer for any reason, the time the aids are out of the customers' possession will not count towards the 30 days. As an example, if the customer has the hearing aid for 7 days and then it goes back to the manufacturer; the day the customer receives it back will be eighth day of possession. The customer will have a responsibility to pick up the hearing aid within 7 days of being notified of its return from the factory. Should they not pick it up within the prescribed time period, any time after the 7 days will count towards the 30 days of possession. This must all be clearly described in the documentation referred to in the next section. There will need to be a remedy for the possibility that the dispenser refuses to see the customer in a timely manner.

Documentation of non-possession during fitting period – Dispenser will give customer written notice that the hearing aid is not in their possession. Dispenser will be required to have customer sign for giving up hearing aid when it goes to manufacturer for any work and then sign when it is back in the customers' possession. Both events (giving up and receiving back) shall be dated. The sign out sign in rule will only apply during the defined 30 day fitting period.

Dispensing fee – In the event that the hearing aid is returned for any reason, the dispenser may charge up to \$200 per hearing aid for services rendered. This shall be clearly stated on the contract.

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
Hawthorn Suites
321 Bercut Drive
Sacramento, CA 95814
December 11, 1998
MINUTES**

Members Present

David Alessi, M.D.
Rebecca Leonard, Ph.D, Chairperson
Mary Ruth Pinson
Donald E. Regan, Ph.D.
Stephen Sinclair, Ph.D.

Members Absent

Li-Rong (Lilly) Cheng, Ph.D
Cydney M. Fox, M.A.

Staff Present

Marilee Monagan, Executive Officer
LaVonne Powell, Board Counsel
Annemarie Del Mugnaio, Board Analyst
Lori Garrett, Board Staff
Celeste Mandolph, Board Staff

Guests Present

Sharon Baker, Department of Consumer Affairs (DCA), Sacramento
Roberta Chinn, DCA, Sacramento
Gary Cooper, Hearing Health Care Providers, Sacramento
Gregory Hackett, Hearing Health Care Providers, Santa Rosa
Norman Hertz, DCA, Sacramento
John Hessberg, General Counsel, International Hearing Society, Detroit, MI
Barbara Koski, Speech-Language Pathologist, Elk Grove
Cynthia Merritt, California Academy of Audiology, Sacramento
Bob Powell, California Speech-Language Hearing Association, Sacramento
Rick Pratt, California School Employees Association, Sacramento
Anita Scuri, Legal Counsel, Hearing Aid Dispensers Examining Committee/
Medical Board of California, DCA, Sacramento
Diane Tincher, Executive Officer, Hearing Aid Dispensers Examining Committee,
DCA, Sacramento

Agenda Item 1 Call to Order

Chairperson Leonard called the meeting to order at 9:30 a.m.

Agenda Item 2 Introductions

Introductions were made by all in attendance.

Agenda Item 3 Approval of September 25, 1998 Board Meeting Minutes

It was M/S/C (Pinson/Sinclair) to approve the minutes as submitted.

Agenda Item 4 Chairperson's Report

Agenda Item 4A Endoscopy Legislation

Chairperson Leonard provided an update on the status of the endoscopy legislative proposal. She has had two meetings with representatives of the California Medical Association (CMA). Modifications are presently being made to the draft proposal. Dr. Alessi will draft a letter to Dr. Willard Fee and Scott Syphax at CMA regarding the proposal. Mr. Powell suggested proceeding with the legislation in the form of a spot bill, pending the Board's discussions with CMA officials.

Agenda Item 4B Conference Reports

Ms. Pinson provided an update on the Citizen Advocacy Center conference she attended on behalf of the Board. Among the issues discussed at the conference were the need for national standards, scope of practice, and continuing education. A panel discussion regarding the latest report from the Pew Commission on Reforming Health Professional Regulation was very informative.

Chairperson Leonard attended the annual conference of the American Speech-Language-Hearing Association (ASHA) in San Antonio. Hot topics at the conference included "fast forward," a therapeutic approach to children who have certain kinds of language problems by manipulating the auditory signals, and a presentation by a physical therapist on physical therapy's experience with paraprofessionals or support personnel.

Ms. Monagan and Ms. Powell reported on the annual conference of the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology. Issues addressed at the conference included the purpose of licensure, continuing education, inclusion of a code of ethics in state licensure laws, enforcement and disciplinary processes, increased public member participation, and increased training for board members. Sessions were held on telepractice, support personnel, and hot topics in licensure. Ms. Monagan participated with board administrators from the states of New York, Louisiana, and South Carolina in a dialogue with conference attendees. She was asked to discuss the role of a board administrator. California has been asked to host the conference in the year 2000. Ms. Powell talked about the discussion held on

speech assistants and how valuable the conference was in terms of sharing information and issues of mutual concern.

Agenda Item 4C Report from Ad Hoc Committee on RPE Regulations

The Board heard from staff members about the need to clarify requests for extension of the Required Professional Experience (RPE) period. In answer to a board member's question on repeat examination takers, Ms. Powell stated that legislation is required to limit the number of times an individual can take the national examination. **Dr. Sinclair has prepared a working paper on the RPE extension issue, which will be placed on the agenda for the next meeting.**

Chairperson Leonard reported that one of the discussion items at the school training program directors meeting she and Ms. Monagan attended was the lack of uniformity in the practices used by the training program directors to monitor and record student clock hours and supervision hours for SLPAB, the Commission on Teacher Credentialing, and ASHA. Mr. Powell stated that legislation may be proposed that would require the three entities to adhere to a common standard. Chairperson Leonard suggested that SLPAB might be willing to revisit this issue with CSHA.

Agenda Item 5 Department of Consumer Affairs Report

In the absence of staff from the Board Relations office, Ms. Monagan reported that the two vacancies on the Board should be filled before Governor Wilson leaves office.

Agenda Item 6 Executive Officer's Report

Ms. Fox provided a list of manufacturing companies that may employ audiologists and drafted a letter to be sent, informing them that audiologists who work for those companies as audiologists must be licensed. Ms. Monagan and Ms. Powell will review the documents and take necessary action. Ms. Powell cautioned the Board that only audiologists who are performing activities within the scope of practice of audiology must be licensed. Merely hiring an audiologist does not necessitate licensure. Budget analyst Sharon Baker provided an update on the current year budget and the status of the Board's fund condition. The 1998-99 spending authority and 1999-2000 proposed budget were reviewed, and Ms. Baker answered questions from the members. Bill language has been drafted and provided to CSHA to extend SLPAB's sunset date. The regulation proposals dealing with advertising of degrees and citations and fines have been filed with the Office of Administrative Law and are pending approval. Ms. Monagan submitted a legislative proposal to DCA to correct an incorrect reference regarding the fee for the new temporary license. Dr. Sinclair pointed out an additional drafting error that will be provided to the DCA Legislative Unit for correction. A column has been submitted to the CALSPAPP newsletter. SLPAB will host an informational forum on April 15, 1999 at the CSHA conference. The

second expert witness training workshop will be scheduled in San Diego in January. Jean Nichols has accepted a position with another state agency. Annemarie Del Mugnaio has been hired as the Board's new staff analyst effective December 15, 1999.

Agenda Item 7 Occupational Analysis Update

Norman Hertz and Roberta Chinn met with Chairperson Leonard and Ms. Monagan earlier in the month to discuss the status of the occupational analysis. Dr. Chinn discussed the background and rationale for an occupational analysis of speech-language pathology. Ms. Monagan also stated that an additional rationale for the occupational analysis was due to the increase in the number of questions the Board office receives on a regular basis regarding scope of practice. Dr. Chinn updated the members on the current status of the analysis. A survey questionnaire is being developed to be sent to 2,000 speech-language pathologists throughout the state, which will ask for background information about their practices and areas of specialization. The questionnaire will rate frequency and importance of specific aspects of knowledge to the speech-language pathologist's current job. The results will be used to develop a description of current practice and possibly to update the board's laws, regulations, and policies. The questionnaire will first be sent to the individuals who were interviewed and the workshop participants prior to be sent to the 2,000 speech-language pathologists.

Agenda Item 8 Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Ms. Powell provided a brief update on the status of the emergency regulations. After discussion, the Board agreed to defer taking action on the regulations.

Agenda Item 9 Update on Meeting with International Hearing Society Regarding use of the term "Audioprosthology"

Ms. Powell reminded the members of the motion that was adopted at the September 1997 Board meeting which stated, "Any person who represents himself or herself as an audioprosthologist is in fact holding himself or herself out as a licensed audiologist and, therefore, the use of that title without benefit of licensure is misleading to the public." Ms. Powell also informed the Board that the constitutional right to free speech was an issue and the Board may not be successful on enforcing the restriction. Mr. Hessberg addressed the September 1998 Board meeting and reiterated what the constitutional issues were regarding the use of the title "audioprosthologist" by a hearing aid dispenser. Ms. Powell, Ms. Scuri, and Mr. Hessberg subsequently met in order to discuss the constitutional issues. A consensus was reached at that meeting that if the term "audioprosthologist" is used by a hearing aid dispenser who is not a licensed audiologist, they need to add their hearing aid dispenser's license to make it clear that they are a hearing aid dispenser. Ms. Powell asked the Board to reconsider

the motion passed at the September 1997 meeting. Ms. Scuri stated that one of the reasons reconsideration is being requested is that the Hearing Aid Dispensers Examining Committee, as part of its advertising guidelines, is proposing to include the results of this Board's motion. An extensive discussion ensued. **It was M/S/C (Alessi/Sinclair) to reconsider the motion passed at the September 1997 Board meeting. There was one "no" vote.** A discussion followed regarding the coursework required to become an audioprosthologist and advertising guidelines used by hearing aid dispensers. **It was M/S/C (Alessi/Sinclair) that any person who represents himself or herself as an audioprosthologist is holding himself or herself out as a licensed audiologist unless the term "audioprosthologist" is used in conjunction with the hearing aid dispenser's license number or the term "hearing aid dispenser." There was one "no" vote.**

Agenda Item 10 Report from AB 205 Working Group

The first meeting of the working group, consisting of Chairperson Leonard, Dr. Sinclair, Mr. Powell, Ms. Monagan, and Ms. Powell, was held on November 3, 1998 to discuss draft regulations for speech-language pathology assistants and continuing professional development for all licensees. A subsequent meeting was held with Mr. Powell and Board staff to review existing continuing education requirements and develop language for the speech-language pathology assistant regulations. Additional meetings of the Working Group will be scheduled in the near future. It was proposed that a public hearing be held on the speech-language pathology assistant regulations. Dr. Sinclair offered to assist with the public hearing.

The continuing professional development regulations can be filed as emergency regulations. Ms. Powell and Ms. Monagan responded to questions from the members. After discussion, the definition of a "self-assessment testing" course was clarified in Section 1399.210, those courses which are considered outside the scope of continuing professional development were clarified in Section 1399.214, and the level of the course content to be included in any course advertisements was clarified listed in Section 1399.219. **It was M/S/C (Alessi/Pinson) to adopt the amended continuing professional development regulations and to file them as emergency regulations with the Office of Administrative Law.**

Agenda Item Eleven Closed Session

There was no closed session.

Agenda Item Twelve Public Comment on Items not on the Agenda

No public comment was received.

Agenda Item Thirteen Future Meeting Date

The next meeting date was scheduled for February 26, 1999 in San Diego (meeting date and location was rescheduled for March 12, 1999 in Burbank). The AB 205 Working Group will meet on either January 13 or January 15 in San Diego, in conjunction with the Expert Witness Training Workshop.

Dr. Alessi requested that the scope of practice and regulation of occupational therapists be placed on the agenda for the next Board meeting.

Agenda Item Fourteen Announcements

There were no announcements.

Agenda Item Fifteen Adjournment

Chairperson Leonard adjourned the meeting at 2:36 p.m.

Marilee Monagan, Executive Officer

Approved at the March 12, 1999 Board meeting

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
AUDIOLOGY COMMITTEE MEETING
Burbank Holiday Inn
150 East Angeleno Avenue
Burbank, CA
March 11, 1999
MINUTES**

Members Present

Cydney Fox, M.A.
Donald Regan, Ph.D., Chairperson
Stephen Sinclair, Ph.D.

Members Absent

David Alessi, M.D.

Staff Present

Marilee Monagan, Executive Officer
LaVonne Powell, Board Counsel

Guests Present

Woodley Butler, Self-Help for Hard of Hearing People (SHHH), Laguna Woods
Dennis Colucci, audiologist, Irvine
Linda Dye, CCHAT Center, Rialto
John Hessburg, International Hearing Society, Detroit, Michigan
Rebecca Leonard, Ph.D., Chairperson, Speech-Language Pathology and
Audiology Board, Sacramento
Michael Metz, audiologist, Irvine
Barbara Moore-Brown, President, California Speech-Language-Hearing
Association, Anaheim Hills
Lora Schwallie, Newport Audiology Centers, Westlake Village
Anita Scuri, Legal Counsel, Hearing Aid Dispensers Examining Committee,
Department of Consumer Affairs, Sacramento
Grace Tiessen, Vice President, SHHH-California, Pasadena

Agenda Item 1 Call to Order

Chairperson Regan called the meeting to order at 7:20 p.m.

Agenda Item 2 Introductions

Introductions were made by all in attendance.

Agenda Item 3 Hearing Aid Dispensers Advertising as Audiologists/Audioprosthologists

Chairperson Regan summarized the action taken at the December 1998 Board meeting. At that time, the Board passed a motion which stated that “any person who represents himself or herself as an audioprosthologist is holding himself or herself out as a licensed audiologist unless the term ‘audioprosthologist’ is used in conjunction with the hearing aid dispenser’s license number or the term ‘hearing aid dispenser’.” Ms. Powell and Ms. Scuri stated that no consumer complaints on this issue have been received by either the Speech-Language Pathology and Audiology Board or the Hearing Aid Dispensers Examining Committee.

Members and guests discussed their concerns regarding the use of the term “audioprosthologist.” Among the concerns discussed were the use of restrictive language and the First Amendment issue, consumer confusion with the terms “audioprosthologist” and “audiologist,” and discussion concerning a survey of public opinion as to whether confusion does exist between the two terms. **It was m/s/c (Fox/Regan) that the Board rescind its previous motion passed at the December 1998 Board meeting regarding the use of the terms “audioprosthology” and “audioprosthologist.”** Ms. Fox further suggested that the Board hire an organization to develop an independent survey of consumers regarding the use of the term “audioprosthologist.” **It was m/s/c (Sinclair/Fox) to direct the Executive Officer to report to the Board on a feasibility study for conducting a valid consumer survey of the public understanding of the terminology involving use of the title beginning with “audio...” and similar titles.**

Agenda Item 4 Continuing Professional Development Proposed Legislation/Regulations

The Committee discussed proposed changes to the draft regulations including the amount of the application fee, a reduction to twelve hours of CPD for those licensees whose licenses expire in 2001, continuing education hours earned for HADEC by audiologists who are also licensed as hearing aid dispensers, allowing licensees who are both speech-language pathologists and audiologists to qualify for a reduced number of CPD hours, and distance education. Ms. Monagan stated that a special mailing will be sent to all licensees regarding the CPD requirements once the emergency regulations have been adopted by the State Office of Administrative Law.

Agenda Item 5 Announcements

There were no announcements.

Agenda Item 6 Adjournment

Chairperson Regan adjourned the meeting at 9:40 p.m.

Marilee Monagan, Executive Officer

Approved at the June 25, 1999 Board Meeting



HEARING AID DISPENSERS PRACTICE COMMITTEE MEETING MINUTES

May 26, 2010

Department of Consumer Affairs

2005 Evergreen Street

“Hearing Room”

Sacramento, CA

Committee Members Present

Deane Manning, Hearing Aid Dispenser

Sandra Danz, Hearing Aid Dispenser

Rodney Diaz, M.D., Otolaryngologist

Alison Grimes, Au.D., Audiologist

Robert Green, Au.D. Audiologist

Staff Present

Annemarie Del Mugnaio, Executive Officer

LaVonne Powell, Legal Counsel

Kathi Burns, Board Staff

Cynthia Alameda, Board Staff

Yvonne Crawford, Board Staff

Debbie Newcomer, Board Staff

Lori Pinson, Board Staff

Board Members Present

Carol Murphy, M.A.

Lisa O’Connor, M.A.

Board Members Absent

Monty Martin, M.A.

Guests Present

Dennis Van Vliet, California Academy of Audiology

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.

I. Call To Order

Deane Manning called the meeting to order at 1:39 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 Regulations Section 1399.140-1399.143

Ms. Del Mugnaio explained that in the meeting packet was a proposal related to redesigning the continuing education (CE) program specifically for licensed hearing aid dispensers. She explained the context of the changes as reflected in the March 24, 2010 Hearing Aid Dispenser Committee Meeting Minutes, which included increasing the continuing education hours to twelve (12) hours annually and limiting courses that are not directly related to the practice of hearing aid dispensing. The document in the agenda packet reflected the requested changes and included provisions to define “related” and “indirect client care courses” and places a limit of four (4) hours that may be applied to the requisite twelve hours annually. The Committee also discussed placing a limit on the number of self-study courses that may be obtained.

Ms. Del Mugnaio indicated that the proposal is a draft document, but that she would like to schedule a hearing once the Committee has a final recommendation. Section 1399.140.1 defines direct client care courses as current practices in the fitting of hearing aids. She explained that the indirect client care course definition was modeled after the speech-language pathology and audiology continuing professional development definitions. Ms. Del Mugnaio pointed out that under Section 1399.141, there are examples of courses that are outside the acceptable course content, and that such content includes marketing and sales courses. Proposed amendments were included that would exclude any manufacturer courses where the courses focus on product-specific information in terms of marketing or sales. Existing provisions authorize course hours for the ethics of marketing and advertising or business practices. Under the proposed amendments, courses in ethics would be included under the indirect client care courses.

Discussion ensued regarding courses offered by hearing aid manufacturers that focus primarily on the marketing of new products. The Committee discussed the option of eliminating the approval of courses; however, it was determined that licensees would have difficulty discerning which course content would be deemed acceptable under the new provisions.

Ms. Del Mugnaio indicated that the Board needs to clearly identify which courses are considered marketing by employing subject matter experts (SMEs) who may determine the course relevance and whether the content is deemed directly relevant, related, or indirect client care.

Ms. Del Mugnaio recommended that we continue with course approval in-house and use SMEs to review courses and make recommendations regarding course relevance.

The Committee expressed concerns regarding timely processing of courses. Ms. Del Mugnaio responded that, with the use of four or five SMEs who are familiar with the hearing aid dispensing subject matter, courses could reasonably be approved within 30 days. Additionally, adding the capability of filing applications electronically, with hard copies to follow, would expedite the approval process. The Committee also expressed concern that manufacturer courses are not designed as educational courses that provide an added layer of public protection, but instead, are geared toward the marketing of a particular product and are more of a financial incentive for the manufacturer and provider. It was stated that manufacturer product courses are not prohibited, but all such courses may not apply toward CE hours for license renewal.

M/S/C: Grimes/Green

The Committee voted to approve the CE proposal be accepted with the following amendments: Increase hearing aid dispensing CE hours to 12 hours annually, of which three (3) hours may be in related or indirect client care and an additional three (3) hours in self-study; exclude courses related to personal finances, business matters, marketing and sales,

increased profitability, and office operations that are not for the benefit of the consumer; and specify time frames for approval of CE applications within 30 days as opposed to 45 days. It was also recommended that the proposal be set for hearing.

IV. Review Proposal to Clarify Song-Beverly Consumer Warranty Act (California Civil Code Section 1793.02)

Ms. Del Mugnaio explained the background and history, which included difficulties encountered in enforcing the Song-Beverly Consumer Warranty Act. At the March 24, 2010 Committee Meeting, the Board's Legal Counsel requested that the Board draft proposed changes. Mr. Green agreed to review the provisions that have been difficult to define or interpret. He prepared an overview of other states' provisions regarding the refund and return of hearing aids.

Ms. Del Mugnaio indicated that it would be less challenging to establish time frames than to establish a definition for completion of fitting.

Mr. Green referenced his issue paper, as related to the refund and return policies of other states, and stated that the Board needs to define reasonable time frames for the return of hearing aids for a refund, which services include non-refundable fees (loss to dispensers), and the maximum number of different hearing aid models that may be used by a client on a trial basis.

Ms. Del Mugnaio stated there are four issues of concern related to the enforcement of Song-Beverly provisions:

- time frame of completion of fitting;
- tolling (should this exist or not);
- documentation provided to consumers upon adjustment/return; and
- time frame of adjustment period.

Discussion ensued related to defining time periods for completion of the hearing aid fitting, trial periods/right to return, and unbundling of fees.

Ms. Del Mugnaio requested that Mr. Manning and Mr. Green come up with language to submit to the Board's Legal Counsel before the July 26, 2010 meeting.

Mr. Manning adjourned the meeting at 2:50 p.m.



AUDIOLOGY PRACTICE COMMITTEE MEETING MINUTES

May 26, 2010

Department of Consumer Affairs
2005 Evergreen Street
"Hearing Room"
Sacramento, CA

Committee Members Present

Alison Grimes, Au.D., Chair, 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

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
Dennis Van Vliet, 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.

I. Call to Order

Chairperson Grimes called the meeting to order at 3:05 p.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 provided background on the necessity for amending current audiology aide provisions pursuant to SB 821 and the authority the new statutes provided the Board to adopt alternate levels of supervision for audiology aides. She stated that Chairperson Grimes had provided her with a draft position paper on audiology support personnel from the American Academy of Audiology, which was included in the meeting packets. Ms. Del Mugnaio referenced the other pertinent documents in the meeting packets, including other states' laws and regulations for audiology support personnel and the results from the informal survey the Board conducted in 2009, where licensed audiologists were asked to provide comments on the appropriate tasks and supervision standards for audiology aides. Ms. Del Mugnaio reported that only 93 out of 1,300 survey responses were received by the Board.

Chairperson Grimes stated that there are plenty of reference documents and sample provisions available to the Committee to begin crafting draft regulatory language to define the audiology aide duties, limitations, and appropriate supervision parameters.

Mr. Green provided written suggestions regarding audiology aide duties and also included comments on services that should be not be assigned to aides.

The Committee discussed the history behind the statutory exemption for industrial audiology aides in terms of the authority for the Board to authorize industrial audiology aides to function under indirect supervision.

Ms. Del Mugnaio requested that the Committee begin developing regulatory language defining supervision standards, the audiology aide scope of responsibility, and exemptions and limitations on specific professional services. She suggested the Committee review the regulations for speech-language pathology assistants, specifically the supervision provisions.

Chairperson Grimes agreed to draft regulatory language, with input from the other Committee members in a manner that would not compromise the Open Meeting Act. She stated that the draft document will be presented to the Committee at a subsequent meeting for further discussion and modification.

B. AB 1535 – Assembly Member Jones- Authorization for Audiologists to Dispense Hearing Aids/ Consider Regulation Changes for Dispensing Audiologists Pertaining to License Renewal Requirements, Fees, and Continuing Professional Development

Ms. Del Mugnaio stated that the Committee reviewed and approved the proposed amendments at the March 24, 2010 Committee meeting regarding the change in the renewal fee and cycle to a one-year renewal with a \$280 fee for audiologists authorized to dispense hearing aids. She requested the Committee focus on the continuing professional development (CPD) changes, as proposed in the regulatory document included in the meeting packets, and review the language requiring dispensing audiologists to complete fifty percent (50%) of the CPD hours in hearing aid dispensing courses, but where the course content does not focus on the marketing of a particular product or device from a hearing aid manufacturer.

Ms. Winzelberg expressed concern for Educational Audiologists who rely on such manufacturer courses to learn about the latest products and hearing aid technology so that they may appropriately fit children with the latest hearing aid devices.

Chairperson Grimes commented that the restrictions in regulation do not prevent practitioners from seeking such educational opportunities on their own, but does mandate that the CPD for license renewal should focus on educational opportunities that do not have an inherent conflict due to the financial gain of the CPD provider, but instead are geared toward advanced learning and quality care to consumers.

Ms. Bingea commented that there are some extremely well designed audiology courses that have hearing aid related information and should not be restricted to qualifying as only hearing aid course work.

Chairperson Grimes stated that she recognizes that the scope of practice of audiology includes fitting, assessing, validation and verification of hearing aids as a subset of the audiology practice and that hearing aid related information is an integral aspect of rehabilitation; however, the practice of audiology is broad and licensees should be exposed to continued professional growth in other areas of practice as well.

Ms. Hunter inquired how licensees and CPD providers will be advised of the approval of the CPD courses and asked whether the courses will be categorized as “hearing aid related” courses or “audiology-specific” courses.

Mr. Van Vliet inquired how the Board would categorize a course offered by a hearing aid manufacturer where the six hour course was divided into two three-hour segments, with three hours directed toward the marketing of the particular product and the remaining three hours directed toward advancements in hearing aid technology.

Ms. Del Mugnaio stated that the Board will employ the use of subject matter experts (SMEs) to review the hearing aid related coursework and recommend to the Board whether the content meets the CPD regulatory criteria. She further stated that audiology licensees have made such determinations regarding course applicability for the past ten years in terms of independently selecting applicable CPD courses for license renewal, and have been successful in passing the Board’s CPD audit at a rate of greater than 95%.

Chairperson Grimes requested an amendment to the proposed regulations to reflect “hearing aid manufacturers” as opposed to “hearing aid publishers, companies, or corporations.”

M/S/C: Diaz/Green

The Board voted to approve the regulatory changes to Section 1399.157 regarding the license renewal fee and annual renewal cycle for audiologists authorized to dispensing hearing aids and Sections 1399.160.3 and 1399.160.6 regarding the proposed CPD changes, and requested Board staff to notice the proposed changes.

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/Hard of Hearing Children

Chairperson Grimes referenced the Board’s follow-up letter in the meeting packets dated May 6, 2010 to the Department of Developmental Services (DDS) requesting a written response to the Board’s previous communication of September 9, 2009, expressing concerns regarding the lack of qualified personnel providing services to infants and toddlers who are deaf or hard-of-hearing and who are being served by a variety of agencies, including regional centers. She stated that the Board has not received further communication from DDS to date.

Ms. Del Mugnaio agreed to follow-up once again with DDS.

Chairperson Grimes adjourned the meeting at 3:40 p.m.



FULL BOARD MEETING MINUTES

May 26, 2010

Department of Consumer Affairs
2005 Evergreen Street
"Hearing Room"
Sacramento, CA

Board Members Present

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

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

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
Robert Powell, California Speech-Language-Hearing Association
Kimberly Kirchmeyer, Deputy Director of Board Relations, Department of Consumer Affairs
Erica Kano, Assistant to the Deputy Director, Department of Consumer Affairs
Bob Holmgren, Office of Professions Exam Services, Department of Consumer Affairs

I. Call to Order

Chairperson O'Connor called the meeting to order at 4:05 p.m.

II. Introductions

Those in attendance introduced themselves.

III. Approval of Meeting Minutes for March 24-25, 2010 Hearing Aid Dispensers Committee Meeting, Audiology 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/Manning

The Board voted to approve the meeting minutes as amended.

IV. Review of the Medi-Cal Optional Benefit Exclusions for Audiology, Speech-Language Pathology, and Hearing Aid Services

Ms. Del Mugnaio informed the Board that the 2010/2011 Budget Trailer Bill includes provisions for the Medi-Cal Optional Benefits and increases the amount of reimbursement for hearing aids to \$1,510 per fiscal year to persons authorized to dispense hearing aids. She stated that this was an unexpected increase, as it was reported by the Department of Health Care Services (DHCS) last fiscal year that there was discussion regarding eliminating the hearing aid benefit altogether for fiscal year 2010/2011.

Ms. Del Mugnaio distributed a copy of DHCS's response to the Board's questions regarding Medi-Cal benefit reductions, but explained that the response did not address all of the concerns raised by licensed providers; therefore, further written inquiry will be made. Additionally, Ms. Del Mugnaio requested that a Medi-Cal representative attend this Board meeting; however, Medi-Cal indicated that a representative was not available to attend the May meeting. Ms. Del Mugnaio will continue to extend the invitation until a representative becomes available.

V. Executive Officer's Report

Ms. Del Mugnaio referenced the written Executive Officer's Report distributed to the Board members and reviewed each discussion item with the Board as follows:

A. Budget Update

Ms. Del Mugnaio reviewed the expenditures of both the Speech-Language Pathology and Audiology and Hearing Aid Dispensers' budgets as of Month 9, ending on March 31, 2010. She explained the expenditure trends and projected reversions. Ms. Del Mugnaio reported on the Governor's mandatory 5% Personal Services savings which will require the Board to achieve a 5% salary savings for each budget. She stated that the Board will be able to meet the mandatory savings through staff retirement and benefit savings.

B. Proposed Regulations

1. 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 regulation package was approved by the Office of Administrative Law on April 27, 2010, and filed with the Secretary of State. She stated that the regulations take effect May 27, 2010, and the final regulation language, along with updated FAQs, have been posted on the Board's website.

2. License renewal Requirements –Retroactive Fingerprinting – (Adopt California code of Regulations Section- 1399.157.3)

Ms. Del Mugnaio stated that the Board adopted the proposed language, as included in the meeting packets at the March 24-25, 2010 meeting, and that staff has developed the necessary supporting

documentation for filing the proposed amendments and the Notice. She indicated that the proposal should be filed with the Office of Administrative law within the next several weeks.

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

Ms. Del Mugnaio stated that the Board adopted the proposed language, as included in the meeting packets at the March 24-25, 2010 meeting. She indicated that staff has developed the necessary supporting documentation for filing the proposed amendments and that the proposal should be filed with the Office of Administrative Law within the next several weeks.

C. University of California Davis Medical Center Teleaudiology Service Project

Ms. Del Mugnaio reported that Anne Simon, an audiologist from University California Davis (UCD) Medical Center, notified her in late April regarding a proposed project of the UCD Telemedicine and ENT/Audiology departments where the UCD is developing teleaudiology services with private grant funding. Ms. Del Mugnaio stated that Ms. Simon explained the services that will be provided through telemedicine as diagnostic electrophysiologic hearing evaluations for infants in northern CA who did not pass the newborn hearing screening. The evaluations may include ABR, OAE, ASSR, otoscopy, and immittance. Ms. Del Mugnaio stated that the teleaudiology plan will include Ms. Simon operating the equipment at the UCD site while the patient will be with his/her parent at an established site in northern CA, accompanied by a site technician who is responsible for prepping the patient for the evaluation. Ms. Del Mugnaio indicated that she asked Ms. Simon to provide the Board a status update regarding the success of the project in terms of the number of patients being served and the benefits to the mode of service delivery.

D. 2010 Conference Reports

Ms. Del Mugnaio reported on her participation or future participation at the following conferences:

- Attended the American Academy of Audiology State Leaders Workshop on April 14, 2010 in San Diego and presented information on the Board's role in the legislative process. Jody Winzelberg, who also presented during the session, discussed the professional association's role in initiating legislation impacting the audiology profession. Several constituents from other state boards and associations attended the session, and the dialogue was informative.
- Attended the Hearing Health Care Providers Conference on May 15, 2010 in Anaheim and served on a panel with Tricia Hunter and Deane Manning and presented information regarding the merger of the Board with the Hearing Aid Dispensers Bureau, where a status update on proposed changes to the continuing education for the Dispensing Audiologist was discussed. Ms. Del Mugnaio provided an overview of several long-standing professional issues related to hearing aid dispensing, including Song-Beverly Amendments, Establishment Registration, entry-level training standards for hearing aid dispensers, and establishing a training manual for supervision of hearing aid trainees.
- Future conference attendance is planned for the California Academy of Audiology Conference Oct. 1, 2010 in San Francisco, to provide an update on the Board merger and current regulatory and legislative action.

E. Miscellaneous Operational Updates- Staff Relocation

Ms. Del Mugnaio reported the following:

- The staff previously employed by the Hearing Aid Dispensers Bureau relocated to the Board Office on May 6, 2010.
- All hearing aid dispensers' in-coming mail is now being received daily, as opposed to monthly.
- There is a one-time fingerprint requirement for Dispensing Audiologists.
- The Board has in-house cashiering capabilities, which will expedite cashiering functions for the hearing aid dispensers' renewals and applications.
- All complaint, enforcement, and probation handling occurs within the Board and is handling directly by Board staff.

**VI. Update from Board member Lisa O'Connor
Report from the California Speech-Language-Hearing Association State Conference-
April 15-18, 2010 Monterey**

Chairperson O'Connor reported that she attended the California Speech-Language-Hearing Association Conference in April in Monterey and indicated that the session was extremely educational for the conference participants. She stated that she presented information on the Board merger and discussed the Board's position on pending legislative issues. Chairperson O'Connor stated that the participants discussed scope of practice issues facing the various boards.

The Board re-ordered the agenda to take up the closed session deliberations.

X. Closed Session (pursuant to Government Code Section 11126 Subsection (c)(3)-Proposed Decisions/Stipulations/Other APA Enforcement Actions – To Deliberate Petition for Early Termination of Probation and Other Disciplinary Matters

The Board convened into closed session at 4:42 p.m. to deliberate on proposed stipulations/decisions and a Petition for Early Termination of Probation.

The Board reconvened into open session at 5:25 p.m.

VII. Call to Order

Chairperson O'Connor called the continuation of the full Board meeting to order at 9:05 a.m.

VIII. Introductions

Those in attendance introduced themselves.

IX. Hearing on Petition for Early Termination of Probation- Kellie Henkel, SP 15547

A hearing on the matter of the Petition for Early Termination of Probation of Kellie Henkel was held.

The Board convened into closed session at 10:10 a.m. to deliberate on the Petition for Early Termination of Probation for Kellie Henkel, SP 15547

The Board reconvened into open session at 11:15 a.m.

X. Practice Committee Reports

A. Hearing Aid Dispensers Committee Report and Recommendations for Proposed Regulatory Amendments Continuing Professional Development Provisions, and Modifications to the Song Beverly Consumer Warranty Act

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: Murphy/Danz

The Board voted to approve the changes to the CE Proposal as follows:

Increase hearing aid dispensers continuing education (CE) hours to 12 hours annually, of which three hours may be earned in related courses and an additional three hours may be from self-study courses; exclude courses related to personal finances, business matters, marketing and sales, increased profitability and office operations that are not for the benefit of the consumer; specify time frames for approval of CE applications within 30 days as opposed to 45 days; and change “where content focus is on equipment, devices, or other products of a particular publisher, company, or corporation” to reflect just “corporation or company.”

M/S/C Manning/Danz

The Board voted to direct Mr. Green and Mr. Manning to prepare proposed language related to a return and refund policy for hearing aids to replace Song-Beverly provisions. The language is to be provided to the Board’s Legal Counsel and reported upon at the July 26 meeting.

M/S/C: Grimes/Green

The Board voted to accept the report and recommendations from 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: Grimes/Green

The Board voted to approve the proposed regulatory amendments regarding the license renewal fee and annual renewal cycle and the continuing professional development requirements for audiologists authorized to dispense hearing aids

M/S/C: Diaz/Danz

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

XI. Discussion Regarding English Language Competency as a Prerequisite to Licensure and Report from Carol Murphy on Experience Participating in the Standard Setting Meeting for the Test of English for International Communication (TOEIC) Examination

Ms. Murphy provided background on the Board's efforts to establish entry-level licensing standards and evaluation processes for internationally trained applicants. She reported that one of the avenues the Board has been researching is establishing an English language competency prerequisite to licensure for internationally training applicants. Ms. Murphy shared her experience participating in the standard setting meeting for the TOEIC exam.

The Board discussed the standard-setting process and the manner within which passing scores are established. There was concern expressed that the identified passing scores for the TOEIC may not be set high enough to identify the appropriate English language competency for entry-level speech-language pathologists.

Ms. Murphy indicated that there is not a federal passing score established for the speaking and writing portions of the TOEIC and that the recent standard setting study conducted by ETS should result in an identified federal passing score.

Discussion ensued, and the Board requested that a representative from the Educational Testing Service attend the July 26, 2010 Board meeting to provide further information regarding the examination.

XII. Proposed Legislation/Regulation Amendments

A. Omnibus Submission - Amendments to AB 1535/ Amendments to Business and Professions Code Section 3365.5 – Conditions for Referral for Dispensing Licensees

Ms. Del Mugnaio informed the Board that the omnibus provisions would be amended into Senate Bill 1489, which will include both the amendments to the merger provisions and the conditions for referral for dispensing licensees, as discussed at the March 24-25, 2010 Board meeting.

Discussion ensued and it was decided that the Board address the issue of cerumen removal at a future board meeting.

B. Consumer Protection Enforcement Initiative (CPEI) – Consideration of regulatory amendments for disciplinary matters and to define additional bases of unprofessional conduct (provisions formerly contained in Senate Bill 1111)

Ms. Del Mugnaio explained that SB 1111 did not pass out of the Policy Committee Hearing in April; however, the Department has identified several provisions of the bill that can be implemented via regulation. Ms. Del Mugnaio explained the provisions regarding unprofessional conduct violations, and the Board agreed to move forward with a regulatory hearing.

M/S/C Grimes/Green

The Board voted that, after legal review, the language be noticed and a regulatory hearing be held.

Kimberly Kirchmeyer updated the Board on the status of CPEI. She explained that the Budget Change Proposal (BCP), authorizing the hiring of additional personnel and IT improvements, passed out of the Assembly; however, it moved through the Senate with a reduction of resources from 138 positions to 70. Therefore, the BCP will move to a Conference Committee, and the Department is hopeful that all 138 positions will be restored throughout the Department's boards and bureaus.

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

Ms. Del Mugnaio explained that this bill would require audiologists or other related professionals to provide written or electronic information on specified communication options for children with a diagnosed hearing loss to parents of a newborn or infant who failed a newborn hearing screening. The bill requires that such information be provided at the follow-up appointment with an audiologist and by a local provider for the Early Start Program upon initial contact with the parents of a newborn or infant newly diagnosed with a hearing loss. It would also specify that neither the state nor an Early Start Program provider shall incur the cost of implementing this bill. Ms. Del Mugnaio stated that the bill has been referred to the Committee on Health and is scheduled for hearing on June 16, 2010.

Ms. Winzelberg explained that the California Academy of Audiology has been working with the sponsor of the bill and the author's office on technical amendments, one of which would be an amendment that would alleviate audiologists or the other providers from assuming the cost of mass producing the resource materials. She stated that the California Medical Association expressed concern with the language of AB 2072, specifically related to the requirement that such resource materials be provided by "other related professionals," as there is no definition as to which professionals would be impacted by the mandate.

The Board discussed concerns surrounding the type and consistency of the resources materials that would be provided to families of hearing impaired children and the professional experts who would be responsible for developing the materials.

M/S/C: Danz/Grimes

The Board voted that a letter of support for AB 2072 be forwarded to the author's office with suggestions regarding the content, uniformity, and timing of dissemination of the materials to be provided to parents of infants diagnosed with a hearing loss.

D. Senate Bill 1172 Negrete-McLeod – Regulation Boards/Diversion Programs – Review Revised Disciplinary Guidelines Regarding Substance-Abusing Healing Arts Licensees and Related Amendments

Ms. Del Mugnaio presented the revised disciplinary guidelines that include the Uniform Standards of Substance Abuse and asked that the members review the language carefully and provide any changes or suggestions to Board staff. Ms. Del Mugnaio will bring the improved language to the Board for adoption at its next meeting.

M/S/C: Grimes/Green

The Board took a support position on SB 1172 (Negrete-McLeod).

E. Legislation of Interest to the Board

Senate Bill 1282 (Steinberg) – Applied Behavior Analysis Services

Ms. Del Mugnaio reported that Senator Steinberg's office is submitting amendments to the bill to pare down the provisions so that the language will recognize the qualifying standards for behavioral analysts as a profession with state and national certification, not licensure. She stated that the intent of the bill is to raise the public's awareness of the state/national professional standards and to provide for title protection for individuals who are certified as behavioral analysts. The provisions would deem those who represent themselves as behavioral analysts without the appropriate certification to be engaging in unfair business practices.

Chairperson O'Connor expressed concern regarding SB 1282, as she has encountered many instances where behavioral analysts are being employed by regional centers to provide assessment and intervention services in communication or language disorders. She is concerned that legislative recognition may lead to confusion in terms of the professional responsibility of speech-language pathologists and behavioral analysts. Chairperson O'Connor commented that the education and training of behavioral analysts does not prepare an individual to serve the complex needs of a child with speech and language disorders.

Ms. Del Mugnaio was asked to watch the progress of this bill and to schedule a conference call with the Board in order to consider taking a position on the bill should the provisions evolve into a scope of practice provision and/or state regulatory measure where behavioral analysts would be a licensed professional practice in the state.

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.

There has been no activity on this bill since the last Board meeting.

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.

The Board took a support position on this bill at the last Board meeting. It is currently moving through the Legislative process with full support.

XIII. Discussion Regarding the Licensing Examination Validation Process and Applicable Mandates – Bob Holmgren, Manager, Office of Professional Examination Services, Department of Consumer Affairs

Bob Holmgren from the Office of Professions Exam Services (OPES) gave a brief explanation of the Examination Validation Study conducted in 2007 for the Hearing Aid Dispensers Bureau on both the written and practical hearing aid dispensers examinations. He also provided information about the written and practical examination workshops and the examination administrative processes.

The Board inquired about the possibility of employing subject matter experts (SMEs) to observe the practical examination in progress, in terms of observing the administration and scoring of the examination.

Mr. Holmgren stated that security is a very high priority for all aspects of the examination process, from workshops to the examination administration and execution, and that Ms. Del Mugnaio could authorize experts who are not currently involved with the examination process to observe the practical examination after signing pertinent confidentiality agreements.

Ms. Del Mugnaio stated that it may be beneficial for the SMEs to consult with the examiners to determine how the specific decisions are made regarding the scoring of an examination participant. Mr. Holmgren stated that each examiner's decision is independent and should not be compromised by another expert's opinions or judgments.

Ms. Newcomer stated that the examiners do not know if the candidate passes or fails a particular station, as the decision is not made by the examiners, but by way of a cumulative score of the entire examination.

The examiner orientation/training was briefly discussed and an explanation of how the examiners score each candidate and the copious notes the examiners keep in order to justify the scoring of a particular candidate.

Mr. Holmgren thought that monitoring by OPES and SMEs could possibly help with the exam process. It was decided that no more than 3 or 4 SMEs would be needed.

The Board inquired about the number of times a validation process had been performed by OPES on the practical examination. Mr. Holmgren stated that, while it had not been done very often over the past several years, the consistency of the scoring of the examiners was very high, and that this rate of consistency is one measure of examination validation.

Ms. Del Mugnaio suggested that the San Diego Exam on October 23, 2010 be observed, if possible, and stated that she will work with Mr. Holmgren to make arrangements for the observation by the SMEs, which will be comprised of both hearing aid dispensers and audiologists.

Public member Trisha Hunter stated that the conversation regarding the Hearing Aid Dispensers examinations and the issues regarding examination relevance should have been held in the Hearing Aid Dispensers Committee meeting before being presented to the Full Board.

XIV. Licensing / Enforcement/Examination Statistical Data

The Board reviewed and discussed the statistics provided regarding licensing, enforcement, and examination activity.

XV. Public Comment on Items Not on the Agenda/Future Agenda Items

Ms. Grimes commented on the new requirement that Medical Doctors (MDs) must now post information regarding the entity which licenses MDs and how to contact the licensing board. She asked what prompted the new requirement.

Chairperson O'Connor discussed the practicality of using telepractice techniques to provide supervision to assistants in rural areas via e-supervision, where the supervision is provided via

telecast. She requested that Ms. Del Mugnaio review the Speech-Language Pathology Assistant regulations to determine if such supervision is permissible.

Ms. Del Mugnaio stated that California State University San Marcos is now accredited through the Council on Academic Accreditation and will begin enrolling students in the Masters Speech-Language Pathology Program in September 2010. There is no undergraduate component to this program.

Ms. Del Mugnaio announced that future agenda items shall include items identified throughout the meeting, and the new issues of licensed audiologists and hearing aid dispensers' participation in discount hearing service programs and issues with Business and Professions Code section 650 regarding prohibited referrals and entry-level licensing standards for 4th year audiology doctoral students completing the required professional experience.

XVI. Announcements – Schedule Future 2010 Board Meetings – July 26, 2010 Sacramento – Board Member Training Forum July 27, 2010 Sacramento, October 21-22, 2010 San Diego

Ms. Del Mugnaio announced that the next Board meeting scheduled for July 26, 2010 in Sacramento, is a one day meeting held in conjunction with several other Department of Consumer Affairs boards. The following meeting will be held in San Diego on October 21-22, 2010.

The Board chose a tentative subsequent meeting date of January 27-28, 2011 in San Francisco.

XVII. Adjournment

Chairperson O'Connor adjourned the meeting at 3:22 p.m.

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*[®]: 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*[®] certificate. *VisaScreen*[®] 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*[®]). 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.

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

BUDGET REPORT
 FY 2009-10 Expenditure Projection
 BASED ON JUNE 2010 CALSTARS REPORT

Month Number	12
Mo. Remaining	0

OBJECT DESCRIPTION	FY 2008-09		FY 2009-10					STRAIGHT LINE	METHODOLOGY
	ACTUAL EXPENDITURES (MONTH 13)	EXPENDITURES AS OF 6/30/2009	Final BUDGET ALLOTMENT	EXPENDITURES AS OF 6/30/2010	EXPENDITURE PROJECTIONS AT YEAR END	UNENCUMBERED BALANCE AT YEAR END			
PERSONAL SERVICES									
Salary & Wages	259,257	259,257	239,913	234,423	234,423	5,490	234,423	YEAR TO DATE	
Temp Help 907	8,868	5,203	14,007	17,600	17,600	-3,593	17,600	YEAR TO DATE	
Bd/Comm (901,920)	0	0	5,854	1,200	1,200	4,654	1,200	YEAR TO DATE	
Overtime	712	712	0	0	0	0	0	YEAR TO DATE	
Benefits	98,720	102,062	93,461	96,574	96,574	-3,113	96,574	YEAR TO DATE	
Salary Savings	0	0	(6,597)	0	0	-6,597	0	BUDGET AMOUNT	
TOTAL PERS SVS	367,557	367,234	346,638	349,797	349,797	-3,159	349,797		
OPERATING EXPENSES & EQUIPMENT									
Fingerprints	5,478	4,968	23,615	4,896	4,896	18,719	4,896	YEAR TO DATE	
General Expense	7,361	6,599	12,404	8,128	8,128	4,276	8,128	YEAR TO DATE	
Minor Equipment 226	6,411	6,411	3,800	114	114	3,686	114	YEAR TO DATE	
Printing	19,341	19,052	18,964	7,254	7,254	11,710	7,254	YEAR TO DATE	
Communication	6,977	5,977	9,624	4,001	4,001	5,623	4,001	YEAR TO DATE	
Postage	16,880	16,180	2,598	14,674	14,674	-12,076	14,674	YEAR TO DATE	
Noc-Insurance	0	0	0	0	0	0	0	YEAR TO DATE	
Travel In State	9,619	9,509	11,394	11,416	12,454	-1,060	12,454	STRAIGHT LINE (1)	
Travel Out of State	698	698	1,324	0	0	1,324	0	YEAR TO DATE	
Training	229	229	4,813	288	288	4,525	288	YEAR TO DATE	
Facilities Ops	54,972	54,972	64,576	59,297	59,297	5,279	59,297	YEAR TO DATE	
Alterations	0	0	0	0	0	0	0	YEAR TO DATE	
C&P Serv. Internal	0	112	2,753	0	0	2,753	0	YEAR TO DATE	
**C&P Serv. External	25	0	0	0	0	0	0	YEAR TO DATE	
DEPARTMENTAL PRORATA									
DP Billing (OIS)	60,002	72,975	69,222	69,228	67,843	1,379	69,228	2% REVERSION	
Indirect Dist. Cost	44,208	46,176	41,866	41,868	41,031	835	41,868	2% REVERSION	
DOI - Prorata	1,461	1,854	1,687	1,692	1,658	29	1,692	2% REVERSION	
Public Affairs	1,810	2,295	3,875	3,876	3,798	77	3,876	2% REVERSION	
CCED	2,104	2,249	2,040	2,040	1,999	41	2,040	2% REVERSION	
OPP Support Serves	0	0	0	0	0	0	0	2% REVERSION	
Interagency Agreement (IAC)	32,437	0	93	0	0	93	0	2% REVERSION	
Share Services (MBC)	88	88	0	0	0	0	0	2% REVERSION	
CONSOLIDATED DATA CENTERS									
Consolidated Data Cntr (Teale)	400	2,000	5,460	588	588	4,872	588	YEAR TO DATE	
DATA PROCESSING									
DP Maint & supplies (432,436)	248	248	3,806	0	0	3,806	0	YEAR TO DATE	
IT Hardware	0	0	0	10	10	-10	10	YEAR TO DATE	
Electric Waste/Recycle	32	32	0	0	0	0	0	YEAR TO DATE	
CENTRAL ADMINISTRATIVE SVC									
Central Adm. Services (Statewide Pror)	37,706	37,706	34,942	34,942	34,942	0	34,942	FULL BUDGET	
EXAMS									
Exam supplies & freight	0	0	0	0	0	0	0	YEAR TO DATE	
Exam Site rental	0	0	0	0	0	0	0	YEAR TO DATE	
Expert Exam	0	0	0	0	0	0	0	YEAR TO DATE	
Exam Contracts	0	0	0	0	0	0	0	YEAR TO DATE	
Expert Examiners (SME)	3,785	3,285	0	0	0	0	0	YEAR TO DATE	
ENFORCEMENT									
Attorney General	43,857	30,584	48,572	41,465	#REF!	#REF!	41,465	ESTIMATE	
Off of Admin Hearings	2,087	825	5,112	2,200	2,200	2,912	2,200	YEAR TO DATE	
Evidence/Witness	10,057	8,057	6,428	10,210	11,600	-5,172	10,210	ESTIMATE	
Court Reporter Serves	500	0	0	200	200	-200	200	YEAR TO DATE	
Div of Investigations	47,648	53,382	0	0	0	0	0	FULL BUDGET	
MAJOR EQUIPMENT									
Major Equipment	0	0	0	0	0	0	0	YEAR TO DATE	
OTHER									
Special adjustment	0	0	0	0	0	0	0	PRIOR YEAR	
Tort Payment	0	0	0	0	0	0	0	PRIOR YEAR	
Total OE & E	416,421	386,463	378,968	318,387	#REF!	#REF!	319,425		
TOTAL EXPENDITURES	783,978	753,697	725,606	668,184	#REF!	#REF!	669,222		
Fingerprint Reimb.	(6,022)	(6,022)	(22,000)	(6,426)	(6,426)	(15,574)	(6,426)	YEAR TO DATE	
Other Scheduled Reimb.	(6,905)	(6,905)	(2,000)	(6,675)	(6,675)	4,675	(6,675)	YEAR TO DATE	
Total Reimbursements	(12,927)	(12,927)	(24,000)	(13,101)	(13,101)	(10,899)	(13,101)		
NET APPROPRIATION	771,051	740,770	701,606	655,083	#REF!	#REF!	643,020		

NOTES/ASSUMPTIONS
 1. CY expenditures include YTD+ Encumbrances

TOTAL PROJECTED DEFICIT/SURPLUS	34,351
OE&E TARGET REDUCTION:	(33,594)
ADJUSTED DEFICIT/SURPLUS:	757

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Speech-Language Pathology and Audiology

REVENUE BUDGET REPORT

FY 2009-10 Expenditure Projection

BASED ON JUNE 2010 CALSTARS REPORT

Month Number	12
Mo. Remaining	0

REVENUE FOR FY 2009-2010					% OF ESTIMATE COLLECTED	PRIOR YEAR FY 2008-09
CATEGORY	CODE	ESTIMATED	YTD	+ / -		
FINGERPRINTS	991937.01	\$ 22,000.00	\$ 6,426.00	(15,574.00)	29%	6,022.00
PUBLIC SALES	991937.02	\$ 2,000.00	\$ 6,675.00	4,675.00	334%	6,905.00
UNSCHEDULED	995988	\$ -	\$ 1,414.44	1,414.44	-	14,540.25
	TOTAL:	\$ 24,000.00	\$ 14,515.44	(9,484.56)	60%	27,467.25
OTHER	125600	\$ 13,000.00	\$ 16,480.00	3,480.00	127%	18,584.44
INITIAL APPLICATION	125700	\$ 74,000.00	\$ 89,842.00	15,842.00	121%	82,264.50
RENEWAL	125800	\$ 674,000.00	\$ 715,420.00	41,420.00	106%	623,846.45
DELINQUENT	125900	\$ 23,000.00	\$ 14,224.00	(8,776.00)	62%	21,993.75
INTEREST	150300	\$ 10,000.00	\$ 6,284.74	(3,715.26)	63%	47,577.44
MISCELLANEOUS	161000	\$ -	\$ 145.00	145.00	-	848.00
MISCELLANEOUS	161400	\$ -	\$ 215.00	215.00	-	70.00
	TOTAL:	\$ 794,000.00	\$ 842,610.74	48,610.74	106%	795,184.58
	TOTAL:	\$ 818,000.00	\$ 857,126.18	39,126.18	105%	822,651.83

DEPARTMENT OF CONSUMER AFFAIRS
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board
Hearing Aid Dispensers

BUDGET REPORT

FY 2009-10 Expenditure Projection

BASED ON JUNE 2010 CALSTARS REPORT

Month Number	12
Mo. Remaining	0

OBJECT DESCRIPTION	FY 2008-09		FY 2009-10					STRAIGHT LINE	METHODOLOGY
	ACTUAL EXPENDITURES (MONTH 13)	EXPENDITURES AS OF 6/30/2009	Final BUDGET ALLOTMENT	EXPENDITURES AS OF 6/30/2010	EXPENDITURE PROJECTIONS AT YEAR END	UNENCUMBERED BALANCE AT YEAR END			
PERSONAL SERVICES									
Salary & Wages	208,160	130,438	197,499	169,402	169,402	28,097	169,402	YEAR TO DATE	
Temp Help 907	39,601	30,210	0	1,375	1,375	-1,375	1,375	YEAR TO DATE	
Bd/Comm (901,920)	4,700	3,100	5,822	700	700	5,122	700	YEAR TO DATE	
Allocated Proctor Comp	632	432	0	1,242	1,242	0	1,242	YEAR TO DATE	
Overtime	6,136	3,812	0	1,677	1,677	-1,677	1,677	YEAR TO DATE	
Benefits	95,543	68,117	71,847	68,493	68,493	3,354	68,493	YEAR TO DATE	
Salary Savings	0	0	(6,610)	0	0	-6,610	0	FULL BUDGET	
TOTAL PERS SVS	354,772	236,109	268,558	242,889	242,889	25,669	241,647		
OPERATING EXPENSES & EQUIPMENT									
Fingerprints	51	51	9,000	440	440	8,560	440	YEAR TO DATE	
General Expense	12,040	8,316	26,782	8,149	8,149	18,633	8,149	YEAR TO DATE	
Minor Equipment 226	151	233	35,700	19,784	19,784	15,916	19,784	YEAR TO DATE	
Printing	2,181	1,175	12,573	1,587	1,587	10,986	1,587	YEAR TO DATE	
Communication	2,169	663	8,743	2,962	2,962	5,781	2,962	YEAR TO DATE	
Postage	6,508	3,775	12,573	6,391	6,391	6,182	6,391	YEAR TO DATE	
Noc-Insurance	0	0	0	0	0	0	0	YEAR TO DATE	
Travel In State	32,790	20,319	23,163	7,895	8,613	14,550	8,613	STRAIGHTLINE (1)	
Travel Out of State	0	0	0	0	0	0	0	YEAR TO DATE	
Training	326	19	3,633	0	0	3,633	0	YEAR TO DATE	
Facilities Ops	34,112	33,206	43,508	47,992	47,992	-4,484	47,992	YEAR TO DATE	
Alterations	0	0	0	0	0	0	0	YEAR TO DATE	
C&P Serv. Internal	0	0	137	0	0	137	0	YEAR TO DATE	
**C&P Serv. External	0	0	0	0	0	0	0	YEAR TO DATE	
DEPARTMENTAL PRORATA									
DP Billing (OIS)	29,399	27,072	41,630	41,628	40,797	833	41,628	2% REVERSION	
Indirect Dist. Cost	57,397	45,675	55,410	55,416	54,302	1,108	55,416	2% REVERSION	
DOI - Prorata	1,165	1,125	1,351	1,356	1,324	27	1,356	2% REVERSION	
Public Affairs	1,448	1,395	3,101	3,096	3,039	62	3,096	2% REVERSION	
CCED	21,397	17,100	57,836	57,840	56,679	1,157	57,840	2% REVERSION	
OPP Support Serves	0	0	0	0	0	0	0	2% REVERSION	
Interagency Agreement (IAC)	26,790	26,790	29,351	32,210	32,210	-2,859	32,210	YEAR TO DATE	
IA Share Services	0	0	96	0	94	2	0	2% REVERSION	
CONSOLIDATED DATA CENTERS									
Consolidated Data Cntr (Teale)	200	6,000	2,555	504	504	2,051	504	YEAR TO DATE	
DATA PROCESSING									
DP Maint & supplies (432,436)	0	0	12,770	0	0	12,770	0	YEAR TO DATE	
IT Hardware	0	0	0	0	0	0	0	YEAR TO DATE	
Electric Waste/Recycle	0	0	0	0	0	0	0	YEAR TO DATE	
CENTRAL ADMINISTRATIVE SVC									
Central Adm. Services (Statewide Prora	31,642	23,732	22,692	22,692	22,692	0	22,692	FULL BUDGET	
EXAMS									
Exam Rent - State Owned	5,476	4,155	0	1,539	5,476	-5,476	1,539	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	15,250	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	37,885	48,405	-48,405	37,885	PRIOR YEAR	
ENFORCEMENT									
Attorney General	23,174	16,824	41,995	25,641	41,995	0	25,641	BUDGET	
Off of Admin Hearings	8,577	132	16,637	4,087	4,087	12,550	4,087	YEAR TO DATE	
Evidence/Witness	0	0	1,277	560	560	717	560	YEAR TO DATE	
Court Reporter Serves	334	334	0	0	334	-334	0	PRIOR YEAR	
Div of Investigations	3,187	2,736	160,615	160,620	160,615	0	160,620	FULL BUDGET	
MAJOR EQUIPMENT									
Major Equipment	0	0	0	0	0	0	0	YEAR TO DATE	
OTHER									
Special adjustment	0	0	0	0	0	0	0	YEAR TO DATE	
Tort Payment	0	0	0	0	0	0	0	YEAR TO DATE	
Total OE & E	362,069	283,388	694,246	555,524	584,281	109,965	556,242		
TOTAL EXPENDITURES	716,841	519,497	962,804	798,413	827,170	135,634	797,889		
Scheduled Reimbursements	(1,971)	(1,205)	(9,000)	(3,492)	(3,492)	(5,508)	(5,986)	YEAR TO DATE	
Unscheduled Reimbursements	(1,750)	(1,312)	0	0	0	0	0	YEAR TO DATE	
Total Reimbursements	(3,721)	(2,517)	(9,000)	(3,492)	(3,492)	(5,508)	(5,986)		
NET APPROPRIATION	713,120	516,980	953,804	794,921	823,678	130,126	3,932,629		

NOTES/ASSUMPTIONS

1. CY expenditures include YTD+ Encumbrances

TOTAL PROJECTED DEFICIT/SURPLUS	130,126
OE&E TARGET REDUCTION:	(80,287)
ADJUSTED DEFICIT/SURPLUS:	49,839

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Hearing Aid Dispensers

REVENUE BUDGET REPORT

FY 2009-10 Expenditure Projection

BASED ON JUNE 2010 CALSTARS REPORT

Month Number	12
Mo. Remaining	0

REVENUE FOR FY 2009-2010					% OF ESTIMATE COLLECTED	FY 2008-09	
CATEGORY	CODE	ESTIMATED	YTD	+ / -		Scheduled	Actual
SCHEDULED INTERNA	991913 00	\$ 9,000.00	\$ -	(9,000.00)	0%	0.00	0.00
FINGERPRINTS	991937 01	\$ -	\$ 392.00	392.00	0%	9,000.00	51.00
PUBLIC SALES	991937 02	\$ 9,000.00	\$ 3,100.00	(5,900.00)	34%	0.00	1,920.00
UNSCHEDULED	995988	\$ -	\$ -	0.00	-	0.00	1,749.96
	TOTAL:	\$ 9,000.00	\$ 3,492.00	(5,508.00)	39%	9,000.00	3,720.96
OTHER	125600	\$ 4,000.00	\$ 1,575.00	(2,425.00)	39%	4,000.00	765.00
INITIAL APPLICATION	125700	\$ 134,000.00	\$ 139,790.00	5,790.00	104%	135,000.00	194,750.00
RENEWAL	125800	\$ 453,000.00	\$ 400,708.00	(52,292.00)	88%	453,000.00	489,745.00
DELINQUENT	125900	\$ 4,000.00	\$ 4,500.00	500.00	113%	4,000.00	4,750.00
INTEREST	150300	\$ 19,000.00	\$ 6,445.13	(12,554.87)	34%	55,000.00	29,106.47
MISCELLANEOUS	161000	\$ -	\$ 200.00	200.00	-	0.00	405.00
MISCELLANEOUS	161400	\$ -	\$ 175.00	175.00	-	0.00	30.00
	TOTAL:	\$ 614,000.00	\$ 553,393.13	(60,606.87)	90%	651,000.00	719,551.47
	TOTAL:	\$ 623,000.00	\$ 556,885.13	(66,114.87)	89%	660,000.00	723,272.43

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

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on _____ or must be received by the Board at the hearing.

The Board will hold a public hearing starting at _____ a.m. on _____, at the _____ located at _____, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Business and Professions Code Sections 2531.95, 2532.25, 2532.6, and 2534.2 to implement, interpret or make specific Sections 163.5, 2532.2, 2532.6 and 2534.2, and 2539.1 of the Business and Professions Code, the Board is considering changes to Division 13.4 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board ("Board") is authorized by Business and Professions Code Section 2531.95 to adopt regulations necessary to implement the Speech-Language Pathology and Audiology Licensure Act. Section 2539.1 sets forth new provisions for licensed audiologists to dispense hearing aids under the audiology license provided all specified licensing qualifications have been met. Section 2532.6 mandates that licensed audiologists engage in continuing professional development and learning as related to the licensed profession. In addition, Section 2534.2 establishes the associated renewal fees for "dispensing audiologists." These Sections provide the Board the authority to establish continuing professional development renewal requirements and fees for the dispensing audiology license.

Section 1399.157(c): Adds the new renewal fee and establishes the annual renewal cycle for a dispensing audiologist.

Section 1399.160.3(e): Makes changes to the continuing professional development requirements for dispensing audiologists, which coincide with the annual renewal cycle and include provisions for obtaining specified coursework related to the dispensing of hearing aids as the professional service is authorized under the dispensing audiology license provided all qualifications have been met.

Section 1399.160.6: Adds provisions for the Board to review and approve courses related to hearing aid dispensing to ensure that such courses meet the proposed course content criteria of continuing professional development and are not designed to market products or devices of a

particular manufacturer or company. The proposed amendments also specify the type of information that must be submitted by a continuing professional development provider for each course offered.

Sections 1399.160.4, 1399.160.5, and 1399.160.7 are not being modified, but are included in the proposed language to assist one in understanding the proposed changes to the affected Sections above in context.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: (Add fiscal impact due to new fee and directed fund- Suk)

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts or evidence/documents/testimony:

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

There are approximately fifty (50) approved hearing aid dispenser continuing education providers approved by the Board and approximately two-hundred (200) approved courses. **(Annemarie, I think it would be a good idea for Suk to provide some numbers for you outlining the total cost to businesses based on the number of CE providers and approved courses). The stats would go here and also be part of the 399 and its attachment.**

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: Under current laws and regulations, continuing education providers of hearing aid courses are required to apply for course approval by the Board and pay a course approval application fee of \$55 for each course application. The proposed amendments would merely implement the provisions of Assembly Bill 1535 (Jones, Chapter 309, Statutes of 2009), within the continuing professional development regulation requirements for

audiologists authorized to dispense hearing aids. As such, there is no change to the existing process for businesses which offer continuing education in hearing aid dispensing; and therefore, the Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action as:

- Licensed audiologists who dispensed hearing aids under a separate hearing aid license prior to the enactment of the new statutes under Section 2539.1, were required to pay the biennial audiology license renewal fee of \$110 and a separate hearing aid dispensers license fee of \$280 annually. Under the new provisions, licensed audiologists who qualify as dispensing audiologists must pay only one license renewal fee for the dispensing audiology license which has been established at \$280 annually. As such, the dispensing audiologist will save the \$110 biennially (\$55 annually) for the separate license fees previously paid for the audiology license.
- Existing regulations require licensed speech-language pathologists and audiologists obtain twenty-four (24) hours of continuing professional development course work from a Board-approved provider every two-years, coinciding with the biennial license renewal cycles. Of the twenty-four (24) hours required, licensed speech-language pathologists and audiologists may obtain a maximum of four (4) hours in related or indirect client care courses and another six (6) hours in self-study. Licensed audiologists are also limited to a maximum of number of hours that may be obtained in courses where the content focuses on equipment, devices or other products of a particular manufacturer or company. The proposed amendments to Section 1399.160.3 would establish a distinct set of continuing professional development requirements for audiologists authorized to dispense hearing aids and would require twelve (12) hours annually with fifty percent (50%) of the requisite continuing professional development hours to be obtained through hearing aid related courses where the content does not focus on equipment, devices or other products of a particular manufacturer or company. In addition, the dispensing audiologist may accumulate one-half (1.5) hours in indirect or related client care courses and another one-half (1.5) hours in self-study courses. Since completion of continuing professional development is already a mandate for licensed audiologists, licensees already pay for continuing professional development courses. The change noted above does require licensed audiologists authorized to dispense hearing aids to complete a specified number of hours within one year, that being twelve (12) hours of continuing professional development, which is half of the current requirement of twenty-four (24) hours required in the two-year license renewal period. As such, the Board does not believe the change in the continuing professional development requirements results in a cost impact to the licensee.
- As noted above, continuing education providers are already required to submit course approval applications and fees to the Board for any hearing aid dispenser courses offered to licensees. The proposed changes do not place additional requirements on the Board-approved providers.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses as it makes changes to provisions regarding licensed dispensing audiologists' renewal fees and continuing professional development. The proposed changes do not place additional requirements on small business or on individuals eligible for employment by small business. Dispensing audiologists will save \$55 a year and (also add something about PD after confirming with Suk.

CONSIDERATION OF ALTERNATIVES

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF THE PROPOSAL

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

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

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

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

CONTACT PERSON

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

Name:	Annemarie Del Mugnaio
Address:	2005 Evergreen Street, Suite 2100 Sacramento, CA 95815
Telephone No.:	(916) 263-2909
Fax No.:	(916) 263-2668
E-Mail Address:	Annemarie.delmugnaio@dca.ca.gov

The backup contact person is:

Name: Kathi Burns
Address: 2005 Evergreen Street, Suite 2100
Sacramento, CA 95815
Telephone No.: (916) 561-8779
Fax No.: (916) 263-2668
E-Mail Address: Kathi.burns@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.speechandhearing.ca.gov.

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

INITIAL STATEMENT OF REASONS

Hearing Date: TBD

Subject Matter of Proposed Regulations: Dispensing Audiologist Renewal Fees/Continuing Professional Development

Sections Affected: Title 16, Division 13.4, Sections 1399.157; 1399.160.3; 1399.160.6

Specific Purpose of Each Amendment:

Section 1399.157

The proposed amendment serves to establish the annual renewal cycle and authorized renewal fee for dispensing audiologists in order to appropriately fund the regulation of licensed audiologists who sell hearing aids.

Section 1399.160.3 & Section 1399.160.6

The proposed amendments mandate a specified number of continuing professional development hours in hearing aid related coursework that must be obtained by a dispensing audiologist as a condition of license renewal.

The proposal further establishes procedures for the Board to review and approve courses related to the dispensing of hearing aids as offered by Board-approved providers in order to confirm that such courses meet the established requirements as appropriate continuing professional development for dispensing audiologists' license renewal. The proposed amendments set forth the information and documentation that must be submitted to the Board for each course offered.

Sections 1399.160.4, 1399.160.5, 1399.160.7 are not being modified, however, the sections are provided below to assist one in understanding the proposed changes in context.

Factual Basis:

On January 1, 2010, pursuant to AB 1535, the Hearing Aid Dispensers Bureau, established in 1972, and the Speech-Language Pathology and Audiology Board, established in 1974, merged to form one regulatory body, the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board. Both the former entities

set licensing standards and enforced the laws governing the practices of the specified professions, speech-language pathology and audiology, and hearing aid dispensers, respectively. The 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 order to implement the provisions of the merger legislation, AB 1535, the Board must amend its licensing provisions to reflect the newly established renewal requirements for licensed dispensing audiologists. Business and Professions Code Section 2534.2 established a license renewal fee for dispensing audiologist to not exceed \$280. Currently, licensed hearing aid dispensers pay a license renewal fee of \$280. However, the new statutory provisions regarding the dispensing audiology renewal fees do not specify the license renewal cycle as licensing renewal cycles are typically established by regulation. Existing California Code of Regulations Section 1399.157 provides for a biennial renewal cycle for licensed speech-language pathologists and audiologists. The proposed amendments would provide for an annual renewal cycle for dispensing audiologists in order to provide a sufficient revenue source from dispensing practitioners to be deposited into the Hearing Aid Dispensers Account. The provisions of AB 1535 (Section 55) mandates that the Board establish fees for dispensing audiologists that are sufficient to support the Board in its regulation of licensed audiologists who sell hearing aids and hearing aid dispensers and that such fees are fairly appropriated.

Business and Professions Code Section 2539.1, effective January 1, 2010, provides an avenue for a licensed audiologist, whose audiology and hearing aid dispensers' licenses were in good standing as of January 1, 2010, and who had taken and passed the requisite hearing aid dispensers examinations, to be eligible to dispense hearing aids under the audiology license. The provisions of Section 2539.1 specify that licensed audiologists, who are eligible to continue selling hearing aids under the audiology license, shall be subject to the provisions of the Speech-Language Pathology and Audiology Licensure Act (hereinafter "Act"). The Act requires licensed audiologists to complete a specified number of hours in continuing professional development as relevant to the scope of practice of audiology, which includes the fitting of hearing aids. Pursuant to the changes enacted under Assembly Bill 1535 (Jones, Chapter 309, Statutes of 2009), the fitting and selling of hearing aids is now within the scope of practice of a dispensing audiologist and, as such, must be appropriately reflected in the continuing professional development requirements.

Further, the proposed amendments would establish continuing professional development requirements specifically for dispensing audiologists. Business and Professions Code Section 2532.6 established continuing professional development requirements for licensed speech-language pathologists and audiologists and included the authority for the Board to approve continuing professional development providers and courses, as necessary. The

implementing continuing professional development regulations were adopted in 1999, and since then, licensed speech-language pathologists and audiologists have been required to complete twenty-four (24) hours of continuing professional development course work from a Board-approved provider every two-years, coinciding with the biennial license renewal cycles. Licensed speech-language pathologists and audiologists may obtain a maximum of four (4) hours in related or indirect client care courses and another six (6) hours in self-study. Licensed audiologists are also limited to a maximum of number of hours that may be obtained in courses where the content focuses on equipment, devices or other products of a particular manufacturer or company. The proposed amendments to Section 1399.160.3 would establish a distinct set of continuing professional development requirements for audiologists authorized to dispense hearing aids and would require twelve (12) hours annually with fifty percent (50%) of the requisite continuing professional development hours to be obtained through hearing aid related courses where the content does not focus on equipment, devices or other products of a particular manufacturer or company. In addition, the dispensing audiologist may accumulate one-half (1.5) hours in indirect or related client care courses and another one-half (1.5) hours in self-study courses. The proposed language reflects the intended benefit of mandatory continued professional growth in that the dispensing audiologists would be required to stay current and abreast of new information and practice trends in the respective fields of audiology and hearing aid dispensing, which do have significant overlap, and are also distinct in their professional scope and patient responsibility.

Since mandatory continuing professional development exists as an additional layer of public protection as it ensures licensees are exposed to current and relevant practice information in order to provide quality patient/client care, the proposed language clearly qualifies the requisite fifty percent (50%) of the continuing professional development hours required of dispensing audiologists in hearing aid related coursework and restricts courses of a particular manufacturer/provider where the content of the course focuses on the marketing of a particular device or equipment. Courses aimed at marketing products do not reflect the spirit of continuing professional development for licensees as such courses are not independent of commercial influence and the focus of such courses serve as a financial benefit to the course provider as opposed to an educational learning experience about relevant practice information. The proposed amendments also stipulate that the remaining fifty percent (50%) of the requisite continuing professional development hours be obtained from audiology coursework specifically where the content does not solely focus on aspects of hearing aid dispensing.

As stated earlier, the scope of practice of audiology and hearing aid dispensing are interdependent in several ways, and as such, many courses offering practice-relevant information may overlap both professions. For this reason, the Board determined that independent course review of all hearing aid related coursework

is necessary in order to ensure that the courses offered by Board-approved providers meet the intent of the proposed continuing professional development requirements. The proposed amendments to Section 1399.160.6 establishes the course review procedures.

Underlying Data:

- November 4, 2009 Audiology Practice Committee Meeting Minutes
- March 24-25, 2010 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting and Audiology Practice Committee Meeting Minutes
- May 26-27, 2010 Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board Meeting and Audiology Practice Committee Meeting Minutes

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts or evidence/documents/testimony:

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

There are approximately fifty (50) approved hearing aid dispenser continuing education providers approved by the Board and approximately two-hundred (200) approved courses. (Annemarie, I think it would be a good idea for Suk to provide some numbers for you outlining the total cost to businesses based on the number of CE providers and approved courses). The stats would go here and also be part of the 399 and its attachment.)

Specific Technologies or Equipment:

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

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. Another alternative would be to not pursue the regulatory changes, however, not pursuing these changes would jeopardize the necessary funding source to the Board's funds and would uphold continuing professional development requirements for licensed audiologists authorized to dispense hearing aids that do not reflect the scope of professional growth that these licensees should be mandated to complete in order to provide competent services to hearing impaired consumers.

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Title 16, Division 13.4, California Code of Regulations Speech-Language Pathology and Audiology Regulations

Article 8. Miscellaneous

(1) Amend section 1399.157 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

1399.157. Fees.

- (a) The application fee shall be \$60.00.
- (b) The biennial renewal fee for licensed speech-language pathologists and audiologists which expire prior to January 31, 2002 shall be \$75.00. Effective January 1, 2002, the biennial renewal fee for licensed speech-language pathologists or audiologists shall be \$110.00.
- (c) The annual renewal fee for a licensed audiologist authorized to dispense hearing aids shall be \$280.
- ~~(e)~~ (d) The fee for registration of an aide shall be \$10.00
- ~~(d)~~ (e) The application and the biennial renewal fee for a continuing professional development provider is a \$200 non-refundable fee.
- ~~(e)~~ (f) The fee for issuance of a license status and history certification letter shall be \$10.00.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code.
Reference: Sections 163.5, 2532.6(f), and 2534.2, Business and Professions Code.

Article 11. Continuing Professional Development

(2) Amend section 1399.160.3 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

1399.160.3. Continuing Professional Development Requirements.

- (a) A licensee, whose license expires in the year 2001, shall accrue at least twelve (12) hours of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than four (4) hours of continuing professional development courses through self-study courses during this renewal period.
- (b) A licensee who holds both a speech-language pathology license and an audiology license that expire in the year 2001, shall accrue at least eight (8) hours of continuing professional development courses as defined in Section 1399.160.4. for each license. A licensee may accrue no more than two (2) hours of continuing professional development courses through self-study courses for each license.
- (c) A licensee shall accrue at least twenty-four (24) hours during a single renewal period of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than eight (8) hours of continuing professional development courses through the following activities during a single renewal period:
 - (1) No more than six (6) hours of self-study activities,
 - (2) No more than four (4) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses

as defined in Section 1399.160.4(c)(3).

(3) Not more than 50% of the continuing professional development hours required of a licensed audiologist, shall be obtained from courses where the content focuses on equipment, devices, or other products of a particular publisher, company or corporation.

(d) A licensee who holds both a speech-language pathology license and an audiology license, shall accrue at least sixteen (16) hours of continuing professional development courses as defined in Section 1399.160.4 for each license. A licensee may accrue no more than five (5) hours of continuing professional development through the following activities for each license:

(1) No more than two and one-half (2.5) hours of self-study activities,

(2) No more than two and one-half (2.5) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(e) A licensed audiologist authorized to dispense hearing aids as provided by Section 2539.1 of the code shall accrue at least twelve (12) hours of continuing professional development as defined in Section 1399.160.4 annually. A licensed audiologist authorized to dispense hearing aids may accrue no more than (3) hours of continuing professional development courses through the following activities during a single renewal period:

(1) No more than one and a half (1.5) hours of self-study activities,

(2) No more than one and a half (1.5) hours from courses related to the discipline of audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(3) Exactly 50% of the continuing professional development hours required of a licensed audiologist authorized to dispense hearing aids, shall be obtained from courses related to hearing aid dispensing but shall not be obtained from courses where the content focuses on the equipment, devices, or other products of a particular manufacturer or company. The remaining 50% of the continuing professional development hours required of a dispensing audiologist shall be relevant to the practice of audiology as defined in Section 2530.2 (k) and shall not be obtained from hearing aid dispensing courses as provided for in this section.

(~~e~~) (f) If a licensee teaches a course offered by a provider registered with the board or an entity listed in Section 2532.6 of the Code, the licensee may claim credit for the same course only once, receiving the same amount of hours of continuing professional development credit as a licensee who attended the course.

(~~f~~) (g) A licensee may not claim credit for the same course more than once for hours of continuing professional development.

(~~g~~) (h) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing professional development.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), and 2539.1(a)-(b) Business and Professions Code.

(3) Section 1399.160.4 is not being modified, however, the section is provided below to assist one in understanding the proposed changes in context.

1399.160.4. Continuing Professional Development Course Content.

(a) A licensed speech-language pathologists shall determine that the content and learning outcomes of a course are relevant to the practice of speech-language pathology as defined in Section 2530.2(d).

(b) A licensed audiologist shall determine that the content and learning outcomes of a course are relevant to the practice of audiology as defined in Section 2530.2(k).

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

(1) Examples of direct patient/client care courses for the practice of speech-language pathology include: fluency disorders, voice disorders, motor disorders of speech, dysphagia, speech science, oral and written language disorders, aphasia and neurogenic disorders of language and cognition, augmentative and alternative communication, phonological/articulatory disorders language science, and patient/client counseling to facilitate recovery from, or adjustment to, a communication disorder.

(2) Examples of direct patient/client care courses for the practice of audiology include auditory and vestibular assessment, auditory habilitation/rehabilitation, hearing assistive technology, industrial audiology/hearing conservation and hearing science.

(3) Indirect patient/client care courses cover pragmatic aspects of speech-language pathology or audiology practice (e.g., legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, technological applications related to assessment/diagnosis or intervention).

(4) Courses that are related to the discipline of speech-language pathology or audiology may cover general medical or educational offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, professional service delivery models, interdisciplinary case management issues, or medical pathologies related to neurological disorders that also result in communication difficulties.

(d) A provider shall ensure that a course has specific objectives that are measurable.

(e) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

(f) Courses considered outside the scope of continuing professional development include, but are not limited to, those in the following areas:

(1) money management, the licensee's personal finances or personal business matters;

(2) general physical fitness or the licensee's personal health;

(3) presentations by political or public figures or other persons that do not deal primarily with the practice of either speech-language pathology or audiology;

(4) tort liability;

(5) courses that address increased office production or computerization, financial planning, employee benefits, marketing or motivational topics to increase productivity or profitability; and

(6) courses in which the primary beneficiary is the licensee, not the consumer.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

(4) Section 1399.160.5 is not being modified, however, the section is provided below to assist one in understanding the proposed changes in context.

1399.160.5.Hours of Continuing Professional Development.

(a) One hour of instruction is equal to one hour of continuing professional development credit.

(b) One academic quarter unit is equal to ten (10) hours of continuing professional development credit.

(c) One academic semester unit is equal to fifteen (15) hours of continuing professional development credit.

(d) One academic trimester unit is equal to thirteen (13) hours of continuing professional development credit.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code.
Reference: Section 2532.6(b), and (c), Business and Professions Code.

(5) Amend section 1399.160.6 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

1399.160.6.Continuing Professional Development Course Approval.

(a) A licensee shall only be credited with continuing professional development hours if he or she takes a course from a board-approved provider with a valid, current approval as a provider or from an entity listed in Section 2532.6 (e)(1) of the Code.

(b) Courses related to the dispensing of hearing aids as offered by hearing aid manufacturers or companies shall be reviewed by the Board prior to the offering of the course. The continuing professional development provider must submit such request for course approval to the Board according to the timeline in Section 1399.151.1 (e). Such request shall include:

(1) The name of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

~~(b)~~(c) A licensee or a continuing professional development provider may voluntarily petition Board consideration of any courses offered by an approved provider or an entity listed in Section 2532.6 (e)(1) of the Code. The licensee or continuing professional development provider must submit such request for course approval to the Board according to the timeline in Section 1399.151.1 (e). Such request shall include:

(1) The name of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code.
Reference: Section 2532.6(b), (e)(1) and (e) (2), Business and Professions Code.

(6) Section 1399.160.7 is not being modified, however, the section is provided below to assist one in understanding the proposed changes in context.

1399.160.7.Board-Approved Providers.

(a) A continuing professional development provider shall meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) An applicant for continuing professional development provider shall submit a completed Continuing Professional Development Provider Application (form no. 77A-50, new 1/99),

hereby incorporated by reference, remit the appropriate fees, submit a complete operational plan, and obtain a continuing professional provider number from the board to become a board-approved provider.

(c) A provider approval issued under this section shall expire twenty-four months after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the biennial renewal fee set forth in Section 1399.157 of these regulations.

(d) A provider approval that is not renewed by the expiration date may not be renewed, restored, reinstated, or reissued thereafter, but the provider may apply for a new approval.

(e) Board-approved provider status is not transferable.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code.
Reference: Section 2532.6(e)(1) and (e)(2), Business and Professions Code.

**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

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, but is not limited to, 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.

AuD Students Completing the 4th-Year Externship

Business and Professions Code Section 2532.25:

(a) An applicant seeking licensure as an audiologist shall possess a doctorate in audiology earned from an educational institution approved by the board. The board may, in its discretion, accept qualifications it deems to be equivalent to a doctoral degree in audiology. The board shall not, however, accept as equivalent qualifications graduation from a master's program that the applicant was enrolled in on or after January 1, 2008.

(b) In addition to meeting the qualifications specified in subdivision (a), an applicant seeking licensure as an audiologist shall do all of the following:

(1) Submit evidence of the satisfactory completion of supervised clinical practice with individuals representative of a wide spectrum of ages and audiological disorders. The board shall establish by regulation the required number of clock hours of supervised clinical practice necessary for the applicant. The clinical practice shall be under the direction of an educational institution approved by the board.

(2) Submit evidence of no less than 12 months of satisfactorily completed supervised professional full-time experience or its part-time equivalent obtained under the supervision of a licensed audiologist or an audiologist having qualifications deemed equivalent by the board. This experience shall be completed under the direction of a board-approved audiology doctoral program. The required professional experience shall follow completion of the didactic and clinical rotation requirements of the audiology doctoral program.

(3) Pass an examination or examinations approved by the board. The board shall determine the subject matter and scope of the examination or examinations and may waive an examination upon evidence that the applicant has successfully completed an examination approved by the board. Written examinations may be supplemented by oral examinations as the board shall determine. An applicant who fails an examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.

(c) This section shall apply to applicants who graduate from an approved educational institution on and after January 1, 2008.

Licensing Issues

- Not all programs require a 12month externship as provided for in the statute
 - Some programs calculate hours, i.e., 1,500 hrs but the hours do not total 12 months of full-time experience (30-40 hours per week).
- Extern students are issued the RPE Temporary License for a period of 15 months allowing for an additional 3 months beyond the 1 –yr externship to work while the final licensing paperwork may be processed. Extern students complete the

universities' externship and are either forced to find other employment as the university placement is no longer available (being offered to a new incoming extern student), or the extern student chooses to seek other employment where a full-time permanent position may be available. The extern student must wait the processing timelines to be issued the permanent license and as such are seeking employment under the RPE Temporary License:

- The extern student/RPE must notify the Board of the change by requiring the new "supervisor" to complete the Supervisor Responsibility Statement.
 - The new supervisor must have completed the requisite supervision training as required in regulation and must continue to supervise the student extern/RPE as a provisional licensee.
-
- It may take several months for the Doctorate of Audiology Degree to be posted on the AuD applicant's transcripts following completion of the externship. The Board must routinely request universities provide a letter documenting completion of all program requirements to accompany the official transcripts in order for the Board to certify the entry-level educational standards have been met.

Health Care Service Plan Provisions/ Prohibited Referrals

- Definition of Health Care Service Plan- Health and Safety Code Section 1345(f)

(f) "Health care service plan" or "specialized health care service plan" means either of the following:

 - (1) Any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for those services, in return for a prepaid or periodic charge paid by or on behalf of the subscribers or enrollees.
 - (2) Any person, whether located within or outside of this state, who solicits or contracts with a subscriber or enrollee in this state to pay for or reimburse any part of the cost of, or who undertakes to arrange or arranges for, the provision of health care services that are to be provided wholly or in part in a foreign country in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee.
- Prohibited Referral Provisions- Business and Professions Code Section 650 – Rebates for patient referrals: Consideration between supplier and health facility
 - (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and **Safety Code**, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or co-ownership in or with any person to whom these patients, clients, or customers are referred is unlawful.
 - (b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.
 - (c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(1)(2)(B) of Title 42 of the United States **Code**, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and **Safety Code** and in Sections 654.1 and 654.2 of this **code**, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and **Safety Code**), or health care facility solely because the licensee has a proprietary interest or co-ownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or co-ownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and **Safety Code** and in Sections 654.1 and 654.2 of this **code**, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the **Code** of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and subsequently amended versions.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and **Safety Code**.

(g) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars (\$50,000).



MEMORANDUM

DATE	January 12, 2009
TO	Annemarie Del Mugnaio, Executive Officer Speech-Language Pathology & Audiology Bureau
FROM	Michael R. Santiago, Department of Consumer Affairs, Legal Office
SUBJECT	AARP/HearUSA

I. QUESTION PRESENTED

Whether a licensee who pays an annual fee of \$500 and a credentialing fee of \$100 every three years may participate in a hearing aid discount program sponsored by AARP Services Inc. ("AARP") and HearUSA wherein the licensee's name is added to a national directory of providers who offer a discounted hearing test evaluation for \$90 to AARP members, as well as certain products, with no obligation for the patient to pursue further testing or procedures.

II. SHORT ANSWER

No. A licensee would be in violation of Business & Professions Code Section 650 if the licensee participated in the AARP/HearUSA Program since it would be considered an unlawful referral to be on this national list of providers.

III. BACKGROUND

AARP Services Inc. is a wholly owned subsidiary of AARP that offers AARP members health products, travel and leisure products, and life event services. HearUSA is the network administrator of the program and is a company that contracts with health plans, employer groups, and subscriber organizations to market a provider's practice through provider directories and internet portals. (See www.hearusa.net) HearUSA is also the administrator of its own Hearing Care Network which is separate from the AARP Hearing Care Program.

AARP contracted with HearUSA for its Hearing Care Program to offer discounted services and products to AARP members. HearUSA is inviting audiologist and Board-certified Hearing Instrument Specialists to participate in this program and join their national network by paying a \$500 annual fee for each location they want listed on the provider directory, as well as paying a credentialing fee of \$100 per provider every three years. After the provider's name is placed on

the network list of providers participating in the Hearing Care Program, the provider could then offer discounted hearing aid products and services to AARP members who contact them.

The program states that a Hearing Care Program provider can offer a “basic/routine” evaluation for \$90 to an AARP member, with no obligation for the member to pursue further testing. This evaluation would include the following: hearing testing; patient assessment and history; hearing aid fitting and orientation; measurement of audibility and comfort levels; post assessment of hearing aid satisfaction; battery supply; aural rehabilitation component; and office visits, procedures and contacts. Audiology testing (testing under the direction of a physician) is outside the scope of this program.

The scant literature available about this program states that it is not a referral program since providers do not pay referral fees to HearUSA – the provider is contacted directly by AARP members. (*Id.*) The Hearing Care Program and products are scheduled to become available in Florida and New Jersey beginning December, 2008. HearUSA expects the Hearing Care Program to become available in all states starting in 2009.

IV. ANALYSIS

Business and Professions Code section 650 states in part:

“. . . the offer . . . by any person licensed under this division . . . of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, ***as compensation or inducement for referring patients***, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.” (Emphasis added)

As noted in 70 Ops.Cal.Atty.Gen. 65, 67 (1987), the Legislature enacted section 650 to protect the public from excessive health care costs (*Mason v. Hosta* (1984) 152 Cal.App.3d 980, 986), as well as referrals based upon considerations other than the best interests of the patients (*Beck v. American Health Group Internat., Inc.* (1989) 211 Cal.App.3d 1555, 1564; *Magan Medical Clinic v. Cal. State Bd. Of Medical Examiners* (1967) 249 Cal.App.2d 124, 132; 68 Ops.Cal.Atty.Gen. 28, 31 (1985)).

Although we do not have a classic referral scheme wherein a third party entity is paid to refer patients to a licensee, the Hearing Care Program would constitute the “referring of patients” according to B&P section 650. In 82 Ops.Cal.Atty.Gen. 1 (1999), the California Attorney General’s Office (“A.G.”) issued an opinion concerning a proposal involving a directory of physicians, plastic surgeons, dermatologists and other licensed health care providers who would perform certain medical procedures for the entity’s enrollees at discounted rates. The A.G. opined that under this type of program, the discount offered by a physician in the directory to an enrollee of the entity would constitute “consideration” to the referring third party entity for

**ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
DO NOT PLACE IN PUBLIC FILES**

purposes of B&P section 650. “The discount conferred upon an enrollee of the entity would enhance the entity’s economically advantageous relationship with the enrollee.” (*Id.*) The program, and the promise of discounted services, is essentially a marketing tool for the third party entity to use in soliciting new enrollees and to promote its health care service plans. Thus, the referrals would be induced by considerations other than the best interests of the patients. The A.G. concluded that this offer of a discount to the patient who is an enrollee of the third party entity is a proscribed “consideration” that is given as an “inducement” for the referring of patients.

In the case at hand, licensees who participate in the Hearing Care Program would offer discounted products and services to AARP-members. According to the opinion of the A.G., this would be unlawful under section 650 because the discount would be consideration given to AARP and HearUSA as an inducement for them to refer AARP-members as potential patients. (*Id.*) The Hearing Care Program would also be a marketing tool for AARP to solicit prospective members with the promise of discounted hearing aid services and products. It would also give HearUSA the opportunity to solicit its own Hearing Care Network to AARP-members.

Although AARP and HearUSA may argue that they do not select the provider for AARP-members, but merely allow AARP-members to access the list of all providers in the AARP-member’s geographical area, this alone would not make section 650 inapplicable. The A.G. has previously opined in several opinions that if the enrollee requests and receives “the referral agency’s entire list of professionals willing to [provide services at a discount], the referral would nevertheless be predicated upon considerations other than the best interests of the prospective patient.” Because HearUSA initially selects and credentials the providers they include in the Hearing Care Program directory of providers, making this directory available to AARP-members would in effect, constitute recommending each provider listed. (*See* 84 Ops.Cal.Atty.Gen. 113 (2001)).

Additionally, although AARP and HearUSA may argue that the Hearing Care Program is advertised and marketed as a “program” to help AARP-members find quality, yet affordable hearing aid services and products, this would not change the fact that it is still a directory of hearing aid professionals who provide certain hearing aid services and products at a set, discounted rate. The directory of providers is essentially purchased by AARP-members (by virtue of them paying yearly dues to AARP) for the purpose of identifying one or more providers willing to provide hearing aid services and products at a discount.

V. RECOMMENDATION

The Bureau should contact AARP Services Inc. and HearUSA and inform them that the Hearing Care Program would be contrary to California Business and Professions Code 650. The Bureau should also contact its licensees to alert them that participation in the Hearing Care Program would be unlawful according to section 650.

VI. CONCLUSION

**ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
DO NOT PLACE IN PUBLIC FILES**

A licensee of the Bureau would not be able to participate in the AARP/HearUSA Hearing Care Program since it would be unlawful according to section 650.

I hope that the foregoing is of assistance.

Sincerely,

DOREATHEA JOHNSON
Deputy Director
Legal Affairs

By: MICHAEL R. SANTIAGO
Staff Counsel

**ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
DO NOT PLACE IN PUBLIC FILES**



FY 2009-2010 ENFORCEMENT STATISTICS
SPEECH-LANGAUGE PATHOLOGY & AUDIOLOGY
 JULY 1, 2009 THROUGH JUNE 30, 2010

COMPLAINT ACTIVITY

Opened	122
Closed	99
Pending	61

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency	0
Incompetence/Negligence	4
Unprofessional Conduct	14
Unlicensed/Unregistered Activity	16
Criminal Charges/Convictions	33
Substance Abuse	0
Fraud	3
Non-Jurisdictional	1
Other	51

Processing Times for Closed Complaints

Months:

0-3	66
4-6	9
7-9	6
10-12	2
12+	13

INVESTIGATION ACTIVITY

Opened	15
Closed	3
Pending	23

Processing Times for Closed Investigations

Months:

0-3	0
4-6	1
7-12	0
13-24	0
25-36	2

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation	13
Information on File	21
Insufficient Evidence	4
Subject Educated	9
Non-Jurisdictional	0
Compliance Obtained	0
Referral to Government Agency	0
Other	9
Citation	34
Conditional License Issued	1
Referred to AG/DA	8

PROBATION CASES

Open	24
Tolled	10
Conditional Licenses	6
	8

CITATIONS ISSUED 34

ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened	7
Closed	7
Pending	11

Processing Times for Closed AG Cases

Years:

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

ADMINISTRATIVE FILINGS

Accusations	3
Statement of Issues	0
Petitions for Penalty Relief	1
Petition for Psychiatric Evaluation	0

ADMINISTRATIVE FINAL DECISIONS

Revocation	0
Revocation, Stayed, Probation	3
Revocation, Stayed, Probation, Suspended	0
License Surrender	1
License Denied	0
Petitions for Penalty Relief Denied	0
Petitions for Penalty Relief Granted	0
Petitions for Penalty Relief Withdrawn	0
Reprimands/Reprovals	0
Stipulated Settlement Order	1
ISO's Ordered	0
Declined by Attorney General	2
Conditional License Issued	0

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency	0
Incompetence/Negligence	4
Unprofessional Conduct	0
Unlicensed/Unregistered Activity	1
Criminal Charges/Convictions	1
Fraud	0
Other	1

Total: 99



FY 2009-2010 ENFORCEMENT STATISTICS

HEARING AID DISPENSERS

JULY 1, 2009 THROUGH JUNE 30, 2010

COMPLAINT ACTIVITY

Opened	165
Closed	131
Pending	88

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency	0
Incompetence/Negligence	10
Unprofessional Conduct	123*
Unlicensed/Unregistered Activity	16
Criminal Charges/Convictions	5
Substance Abuse	0
Fraud	6
Non-Jurisdictional	5
Other	0

Processing Times for Closed Complaints

Months:

0-3	84
4-6	8
7-9	1
10-12	1
12+	3

INVESTIGATION ACTIVITY

Opened	28
Closed	34
Pending	19

Processing Times for Closed Investigations

Months:

0-3	0
4-6	2
7-12	20
13-24	9
25-36	3

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation	11
Information on File	14
Insufficient Evidence	8
Subject Educated	38
Non-Jurisdictional	7
Compliance Obtained	1
Referral to Government Agency	0
Other	23
Citation	2
Conditional License Issued	0
Referred to AG/DA	21
Mediated	6

PROBATION CASES

Open	4
Tolled	0
Conditional Licenses	0

CITATIONS ISSUED

	2
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ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened	19
Closed	5
Pending	7

Processing Times for Closed AG Cases

Years:

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

ADMINISTRATIVE FILINGS

Accusations	2
Statement of Issues	0
Petitions for Penalty Relief	0
Petition for Psychiatric Evaluation	0

ADMINISTRATIVE FINAL DECISIONS

Revocation	0
Revocation, Stayed, Probation	1
Revocation, Stayed, Probation, Suspended	0
License Surrender	0
License Denied	2
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	1
Conditional License Issued	1

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency	0
Incompetence/Negligence	0
Unprofessional Conduct	1
Unlicensed/Unregistered Activity	0
Criminal Charges/Convictions	3
Fraud	1
Other	0

Total: 131

*62 of the Unprofessional Conduct complaints were advertising violations

HEARING AID DISPENSERS EXAMINATION STATISTICS
July 1, 2009- June 30, 2010

Practical Exam				
Exam Dates	May 2010	February 2010	October 2009	August 2009
# of Candidates	42	44	44	51
Total Passed	18	22	21	27
AU/AuD Prog.	10/48%	8/57%	8/47%	7/58%
HAD	8/40%	14/48%	12/46%	18/50%
MD			1	2
Total Failed	24	22	23	24
AU/AuD Prog.	11/52%	6/43%	9/53%	5/42%
HAD	12/60%	15/52%	14/54%	18/50%
MD	1	1		1

Written Exam				
Passed	% Passed	Failed	% Failed	Total Exams
102	61%	64	39%	166



AGENDA ITEM # XII (3)

MEETING DATE: 07/26/2010

LICENSE STATISTICAL REPORT

TOTAL NUMBER OF LICENSES

Hearing Aid Dispensers	1476
Inactive	80
Delinquent.....	193
Temporary-Trainees	94
Delinquent.....	42
Temporary	16
Branch Offices	588
Delinquent	106

LICENSES ISSUED JULY 1, 2009—JUNE 30, 2010

Hearing Aid Dispensers	89
Temporary Trainees	98
Temporary	15
Branch Office	192

APPLICATION FOR NON-TEMP STATUS

Non-Temp Applications.....	58
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PENDING APPLICATIONS

Temporary -Trainees	14
Temporary	2
Non-Temp Applications.....	6
Branch Office.....	5

Web Links to Agenda Items As Listed:

Agenda V.

http://ihsinfo.org/lhsV2/Education/030_ACA_position.cfm

Agenda VIII – Legislation

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_14511500/sb_1489_bill_20100617_amended_asm_v96.pdf

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1451-1500/sb_1489_cfa_20100628_151059_asm_comm.html

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_2051-2100/ab_2072_bill_20100609_amended_sen_v95.pdf

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_2051-2100/ab_2072_cfa_20100622_184227_sen_comm.html

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1151-1200/sb_1172_bill_20100622_amended_asm_v95.pdf

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1151-1200/sb_1172_cfa_20100628_150633_asm_comm.html

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1282_bill_20100624_amended_asm_v95.pdf

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1282_bill_20100624_amended_asm_v95.pdf

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_2351-2400/ab_2382_bill_20100715_amended_sen_v97.pdf

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_2351-2400/ab_2382_cfa_20100622_153147_sen_comm.html

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ajr_31_bill_20100628_chaptered.pdf

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0251-0300/sb_294_bill_20100616_amended_asm_v94.pdf

Agenda XI-

<http://wps0.dmhc.ca.gov/regulations/regs/?key=21>