



FULL BOARD MEETING MINUTES

January 13, 2012

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

Board Members Present

Lisa O'Connor, Chairperson
Alison Grimes, Au.D., Vice Chairperson
Sandra Danz, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Robert Green, Au.D.
Monty Martin, M.A.
Carol Murphy, M.A.
Jaime Lee, Esq.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel
Breanne Humphreys, Staff
Ily Mason, Staff
Yvonne Crawford, Staff

Guests Present

Cynthia Peffers, HHP CA
Tricia Hunter, HHP CA
Rebecca Bingea, UCSF
Marcia Raggio, CSHA, SFSU
Patti Solomon-Rice, CSHA
Bill Barnaby, CSHA
Randy Sagar, HHP
Cynthia Dines, DCA Budget Office
Wilbert Rumbaoa, DCA Budget Office
Stephanie Nunez, Respiratory Care Board

I. Call to Order

Chairperson O'Connor called the meeting to order at 10:45 a.m.

II. Introductions

Those present introduced themselves.

III. Approval of Hearing Aid Dispensers Committee, Audiology Practice Committee, & Full Board Meeting Minutes of October 20-21, 2011.

The Board discussed minor edits to the meeting minutes of the October 20-21, 2011 Hearing Aid Dispensers Committee and Audiology Practice Committee, and full Board meeting minutes.

M/S/C: Grimes/Danz

The Board voted to approve the meeting minutes as amended.

IV. Election of Officers & Board Member Appointments to Committees

M/S/C: Grimes/Murphy

The Board voted to postpone the election of officers to the Board until a future meeting due to the vacant audiology professional member seat on the Board.

Chairperson O'Connor appointed Board member Jaime Lee to the Audiology Practice Committee and the Sunset Review Committee.

Chairperson O'Connor appointed Board member Sandra Danz to the Sunset Review Committee.

Ms. Del Mugnaio announced that the current members of the Sunset Review Committee include Board members: Alison Grimes, Lisa O'Connor, Jaime Lee, and Sandra Danz.

V. Consideration of English Language Competency as a Prerequisite to Licensure and Review of the International English Language Testing System (IELTS)- *Presentation by Kate McKeen, Recognition Manager, IELTS*

Ms. Del Mugnaio provided the history on the Board's research and efforts to identify an examination or measure of English language competency that may be enforced as an entry-level licensing standard for internationally trained applicants. She stated that the Board has determined that English-language competency is a consumer protection issue as a practitioner's ability to communicate effectively with their client has a direct impact on their ability to serve their client effectively. Ms. Del Mugnaio reported that Ms. Murphy has been leading the research on the issue and began communicating with representatives from the International English Language Testing System (IELTS) regarding the administration of their English-language competency examinations and processes.

Kate McKeen of IELTS provided an extensive overview of the components, administration, scoring, and statistical data of the IELTS examination.

The Board inquired about the standard setting process for the IELTS examination and whether the IELTS would be able to assist the Board in conducting a standard setting study.

Ms. McKeen agreed to work with Ms. Del Mugnaio and Ms. Murphy on discussing standard setting study opportunities and Ms. McKeen agreed to research the information on the IELTS standard setting and provide it to the Board.

Ms. Del Mugnaio stated that she would also begin working with the Department's Office of Professional Examination Services (OPES) on organizing a study group and requesting that OPES facilitate the process for the Board.

VI. Executive Officer's Report A. Budget Update

Ms. Del Mugnaio reviewed the expenditure reports for the Board for both the Speech-Language Pathology and Audiology budget and the Hearing Aid Dispensers budget as of Month 05, ending on November 30, 2011. Ms. Del Mugnaio reported that due to the passage of Senate Bill 933, the funds of

the Speech-Language Pathology and Audiology account and the Hearing Aid Dispensers account were merged into one funding source effective January 1, 2012.

Ms. Del Mugnaio introduced Cynthia Dines of the Department's Budget Office, to explain how the budgeting process and funding source will be handled for the Board as a result of the mid-year merger of fiscal resources.

Ms. Dines provided an overview of the fund merger and how the Department of Finance (DOF) has determined the appropriation and documentation of the two program's budgets. She explained that beginning July 1, 2012, the appropriation of the Board will be consolidated into one fund and one budget.

B. Status of Proposed Regulations

Ms. Del Mugnaio provided a written report regarding the status of the following regulations:

1. Consumer Protection Enforcement Initiative (California Code of Regulations Sections 1399.150.3, 1399.151, 1399.156, & 1399.156.5

The regulations will expand the Board's enforcement authority to: delegate to the Executive Officer to accept default decisions and approve settlement agreements for revocation, surrender, or interim suspension orders of a license, compel licensees to undergo a mental/physical examination if there is suspected mental illness; deny or revoke a license for committing an act of sexual abuse or misconduct; prohibit licensees from entering into settlements including gag clauses; take disciplinary action against a licensee for failing to provide the Board lawfully requested documents or information, including reporting felony convictions, arrests, or misdemeanors, or disciplinary action taken by another licensing entity. The proposed regulations include the authority for the Board to deny an application or revoke a license of a registered sex offender. The regulations were initially filed with the Office of Administrative Law (OAL) on June 14, 2011. No public hearing was scheduled or requested. The public comment period closed on August 8, 2011, and one comment in support of the proposal was received by the Center for Public Interest Law, San Diego. The final rulemaking file is being prepared for submission to OAL.

2. Dispensing Audiologists Renewal Fee/Continuing Professional Development (CPD) Amendments (California Code of Regulations Sections 1399.157, 1399.160.3-1399.160.6) – Discussion of Course Approval Process

Established the renewal fees and CPD requirements for dispensing audiologists. Emergency regulations have been in effect since March 1, 2011. Final regulations were approved by OAL on December 28, 2011 and will remain in effect unless later amended.

3. Continuing Education (CE) Requirements for Licensed Hearing Aid Dispensers- California Code of Regulations Sections 1399.140-1399.143

Proposed amendments to the CE changes for hearing aid dispensers to include: A minimum of twelve (12) hours of CE due annually, with no grace period; no more than three (3) hours may be applied toward self-study courses; a licensee must maintain CE records evidencing course completion for a period of three years following the license renewal date; and, restrictions on courses where the content focuses on personal finance and business matters, marketing and sales,

and office operations that are not for the benefit of the consumer. The notice package has been prepared and is being filed with OAL.

4. Cleanup Regulations: Merger of Hearing Aid Provisions with Speech-Language Pathology & Audiology

Senate Bill 933 merged the Practice Acts of Speech-Language Pathologist and Audiologist B&P Chapter 5.3 (Sections 2530 et.seq.) and the Hearing Aid Dispensers Chapter 7.5 (Sections 3300 et.seq.) pursuant to the merger of the two oversight bodies under AB 1535. The Department's Legal Office has assisted the Board with making the necessary amendments to regulations CCR 1399.100- 1399.144 (currently the regulatory provisions for HADs) to merge the provisions to CCR Division 13.4 (where the provisions reside for SLP/AU) and change the enabling statutory references pursuant to the amendments in SB 933.

C. Administrative Updates: Occupational Analysis for Hearing Aid Dispensers Examination, BreEze, Personnel Changes, Strategic Planning, Executive Orders

Ms. Humphreys provided an overview of the following Administrative Updates:

- The Board will be added to the new BreEze program as of February 2013. Ms. Humphreys is working with the Department's Project Team on transition issues.
- The Board is currently recruiting to fill the vacancy of the Office Technician position.
- Announcement of the new: Director of the Department, Denise Brown; Deputy Director of the Department, Awet Kidane; and Deputy of Director of Board Relations, Reichel Everhart

Randy Sagar addressed the Board and announced that he is working with the Department's OPES on the Hearing Aid Dispensers' Occupational Analysis study. He stated that the practice analysis survey document has been prepared and will be sent to all dispensing practitioners within the next few weeks. Mr. Sagar stated that the survey will be web-based and has been considerably condensed from previous practice analysis surveys.

Ms. Del Mugnaio stated that the Board is granting two hours of continuing professional development credit for completing the entire survey.

VI. Practice Committee Reports-

A. Hearing Aid Dispensers Committee Report and Recommendations for Advertising Regulations & Internet Sale of Hearing Aids

Chairperson Manning provided the report of the Hearing Aid Dispensers Committee (included under the Hearing Aid Dispensers Committee Meeting Minutes). He stated that the following report and recommendations were made by the Committee:

- Report on the Board's activity regarding seeking public input on regulation amendments to the current advertising provisions for hearing aids.
- Delegate to Claire Yazigi, Legal Counsel, to prepare an exemption letter to the Federal Drug Administration (FDA) requesting an exemption to the FDA rules regarding the sale of hearing aids over the Internet.
- Delegate to Claire Yazigi, Legal Counsel, to draft a letter to send to other states' licensing boards inquiring about their efforts to regulate the internet sales of hearing aids and to share California's efforts regarding the same.

M/S/C: Manning/Grimes

The Board voted to adopt the recommendation of the Committee.

Ms. Grimes requested that Board staff post a survey on the Board's website soliciting input from consumers and licensees to provide their opinion on the issue of regulating internet sales of hearing aids.

B. Speech-Language Pathology Practice Committee Report and Recommendations for Proposed Regulatory Amendments for Speech-Language Pathology Supervision and Training Program Standards

Chairperson Murphy provided the report of the Speech-Language Pathology Practice Committee and stated that the Committee has recommended the Board adopt the proposed regulations amending the SLPA regulations in California Code of Regulations Sections 1399.170, 1399.170.6, 1399.170.10, 1399.170.11, and 1399.170.15.

M/S/C: Murphy/Grimes

The Board voted to adopt the recommendation of the Committee.

VII. Review Proposed Amendments to the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines for Speech-Language Pathologists, Audiologists, & Hearing Aid Dispensers (California Code of Regulations Sections 1399.131 & 1399.155)

Ms. Del Mugnaio referenced the draft disciplinary guidelines document included in the meeting packets and explained that the Board reviewed the draft document at its October 21, 2011 Board meeting. She stated that during the October meeting discussion, the Board expressed their concern about the amendments related to the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as the Board did not feel as though they had the expertise to determine whether the imposed standards are appropriate for the licensing population regulated by the Board. Ms. Del Mugnaio stated that the Board requested her to invite an expert on substance abuse treatment and monitoring to address the Board and explain how the uniform standards serve to rehabilitate substance abusing licensees. Ms. Del Mugnaio introduced Stephanie Nunez, Executive Officer of the Respiratory Care Board, and stated that she asked Ms. Nunez to share her research and experience with crafting regulations to amend their disciplinary guidelines and substance abuse standards.

Ms. Nunez addressed the Board and provided an overview of the disciplinary guidelines and substance abuse standards as adopted by the Respiratory Care Board. She stated that the regulatory amendments are currently under review by OAL. Ms. Nunez reported that the Respiratory Care Board has retained discretion as to when the substance abuse standards should be enforced, in terms of cease practice orders, and random drug testing frequency.

Ms. Yazigi commented and stated that there has been a legal opinion issued by the Legislative Counsel which concludes that the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Department's SB 1441 Substance Abuse Coordination Committee are to be implemented by boards and bureaus without modification, as such standards are mandatory.

She stated that the Board may choose to include proposed “trigger language” which would establish the criteria for when the standards should be applied to specific enforcement cases. Ms. Yazigi reviewed the proposed “trigger language” with the Board.

Ms. Del Mugnaio explained that the current draft disciplinary guidelines includes provisions for the manner in which the Board must administer the drug testing program and specifics regarding specimen collection. She stated that such provisions are not the responsibility of the respondent licensee or probationer and should probably be removed from the disciplinary guidelines.

The Board reviewed the proposed guidelines and requested Ms. Yazigi and Ms. Del Mugnaio to amend the disciplinary guidelines to include the proposed “trigger language” and remove the administrative provisions regarding the Board’s drug testing responsibilities.

Ms. Del Mugnaio agreed to provide the Board with the amended document to consider at the April Board meeting.

VIII. Discussion Regarding Changes to the National Examination in Audiology and Recommended Changes to Examination Passing Score

Ms. Del Mugnaio reported that the Educational Testing Service (ETS) notified all states that a revised national examination in audiology has been developed and has been put in circulation as of November 2011. She explained that the passing score for the national audiology examination has been changed based on the new examination format and scoring scale. Ms. Del Mugnaio explained that many states have the passing scores identified in their respective regulations and, therefore, the changes implemented by ETS drastically effects other states’ ability to acknowledge the new examination and passing score as a qualification for entry-level licensure. She stated that the Board does not reflect an actual minimum passing score in regulation, but rather provides for a passing score acceptable by the Board.

Vice Chairperson Grimes expressed her concern regarding the validation process for the new audiology examination as administered by ETS. She stated that it is difficult to assess how the new examination compares to the previous version and what actual changes have been made. Vice Chairperson Grimes commented that the only clear distinction is change to the scoring methodology. She requested that Ms. Del Mugnaio write to ETS to request an explanation of the changes including scoring information regarding the mean, standard deviation, scoring percentiles, and pass/fail statistics. Vice Chairperson Grimes further suggested that a statistician from the Department who is well versed in examination scoring methodology review the information provided by ETS.

Ms. Del Mugnaio agreed to request the information from ETS and report the findings to the Board.

IX. Develop Proposed Regulatory Amendments for Audiology Aide Supervision Standards and Practice Limitations (California Code of Regulations Sections 1399.154-1399.154.4)

Ms. Del Mugnaio referenced draft regulations crafted by her and Ms. Grimes that was based on input from professional experts, research of other state’s licensing provisions on audiology support personnel, national guidelines and position statements regarding the use of audiology assistants/aides, and the current provisions on supervision standards for speech-language pathology assistants.

Ms. Grimes stated that in the absence of another audiology professional member on the Board, she does not believe it is appropriate to move forward with adopting the draft regulations for audiology aides without input and consideration from another audiology professional member.

Ms. Grimes, in her capacity as the Chair of the Audiology Practice Committee, appointed Ms. Bingea to a workgroup with the charge of further refining the audiology aide supervision standards and practice limitation regulations. Ms. Grimes stated that she and Ms. Bingea will work together to further develop the draft regulations.

X. Licensing / Enforcement/Examination Statistical Data

The Board reviewed the statistical data as provided by staff.

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

There were no further public comments.

Ms. Murphy requested that the issue of amending the supervisor qualifications for the Required Professional Experience (RPE) Temporary License holder to require that a qualified supervisor possess two-years of professional experience prior to assuming a supervisory role, be placed on the April agenda.

Chairperson O'Connor requested that the Board revisit the prospects of implementing a continued competency program for licensees to replace the current continuing education requirements and request a presentation from the Citizens Advocacy Center regarding the benefits of continued competency programs.

**XII. Announcements - Future 2012 Board Meetings – April 19-20, 2012,
July 19-20, 2012, October 18-19, 2012 (Locations TBD)**

The Board reviewed the meeting calendar and confirmed the dates.

XIII. Adjournment

Chairperson O'Connor adjourned the meeting at 2:10 p.m.

INTERNET SALES BY STATE

STATE	Do you regulate the sale of hearing aids?	Do you regulate the internet sale of hearing aids?	Do you prosecute for internet violations?	Have you been challenged by internet sellers?	Have you been granted or, are seeking federal exemption?
ID	YES	NO	NO	NO	NO
PA	YES	Under Review	Under Review	NO	NO
RI	YES	?	?	?	?
CT	YES	Only if seller is in state	Only if sold in state & licensed.	NO	NO
TX	YES	NO	NO	NO	NO
IA	YES	NO	NO	NO	YES
MO	YES	Preempted	NO	YES	NO
FL	YES	YES	YES	NO	NO
DE	YES	NO	NO	NO	NO
OR	YES	NO	NO	NO	NO
AR	YES	NO	NO	NO	NO
UT	YES	NO	NO	NO	NO
WA	YES	Must have physical contact.	NO	NO	NO

April ___, 2012

Commissioner of Food and Drugs
Division of Dockets Management (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

Re: Application for Exemption from Pre-Emption of Device Requirements

Dear Commissioner:

I am Executive Officer of the California Speech Language Pathology Audiology and Hearing Aid Dispensers Board (“Board”). The Board is responsible for, among other things, the regulation and discipline of Hearing Aid Dispensers in California. The practice of Hearing Aid Dispensing in California is governed by sections 2530 et seq. of the California Business and Professions Code (“BPC”).

The Board seeks information on obtaining an exemption from federal law regarding the sale of hearing aids. We submit the following in compliance with the procedures for requesting an exemption, as set forth in 21 CFR 808.20(c). Numbers in parentheses refer to the numbered requirements of that subdivision:

(1) BPC 2538.23 and its History

BPC 2538.23 states:

“(a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is licensed as a hearing aid dispenser in this state.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and surgeon, audiologist, or a hearing aid dispenser, licensed by the State of California which verifies that Section 2538.36¹ and subdivision (b) of Section 2538.49² have been complied

¹ BPC section 2538.36 reads:

“(a) Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician

with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2538.38³.

(c) A licensed hearing aid dispenser who sells a hearing aid under this section shall not be required to comply with subdivision (b) of Section 2538.49.”

Recent legislation, Senate Bill (“SB”) 933 (2011), repealed the text of this statute from its former location at BPC section 3351.5 and moved and renumbered it to reflect the merger of the Hearing Aid Dispenser’s Bureau with the Speech-Language Pathology and Audiology Board. The statute’s text, however, remains unchanged since its adoption in 1990 through SB 1916.

specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

- (1) Visible congenital or traumatic deformity of the ear.
 - (2) History of, or active drainage from the ear within the previous 90 days.
 - (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
 - (4) Acute or chronic dizziness.
 - (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
 - (6) Significant air-bone gap (when generally acceptable standards have been established).
 - (7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
 - (8) Pain or discomfort in the ear.
- (b) No referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 2538.38. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.”

² BPC 2538.49 reads:

“It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

- (a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.
- (b) Conducts a direct observation of the purchaser's ear canals.
- (c) Informs the purchaser of the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.”

³ The period of time provided for in BPC 2538.38 is seven years.

SB 1916 repealed a prior version of BPC section 3351.5 relating to similar subject matter (added by Stats. 1970).

This statute and its predecessor (BPC section 3351.5) have not been subject to judicial or administrative interpretation. The following is included as legislative history.⁴ We apologize for the poor readability of some of the documents, but this is the nature and quality of the documents as kept on microfiche at California State Archives:

- Appendix A: Governor's Chaptered Bill File, AB 532
- Appendix B: Senate Third Reading of SB 1916
- Appendix C: Senate Appropriations Committee file, SB 1916
- Appendix D: Assembly Republican Caucus file, SB 1916
- Appendix E: Governor's Chaptered Bill file, SB 1916

(2) Comparison with Federal Law

BPC section 2538.23 differs from federal regulation in the following ways:

- a. *Catalog and mail order sales of hearing aids must be made by a California-licensed hearing aid dispenser*** (BPC 2538.23(a)(1)). The FDA's definition of 'dispenser' does not include a licensure requirement (21CFR801.420). However, FDA's rule (21CFR 808.1 (d)(3)) provides for the state's sovereign right to license any professions or occupations that administer, dispense, or sell devices. It is our understanding that, because of this federal rule, California is not federally pre-empted from requiring state licensure of catalog and mail order sellers. If, for some reason, this provision is indeed pre-empted, please consider this as a request for an exemption for the same.
- b. *Prohibition against rendering professional services***. In California, catalog and mail sellers must not render professional hearing aid dispenser services (BPC 2538.23(a)(2)). No federal prohibition exists against the rendering of professional hearing aid dispenser services in connection with catalog or mail sales.
- c. *Observation of ear canals***. Federal regulation requires a medical evaluation before the purchase of a hearing aid (21 CFR 801.421(a)(1)). Such a medical evaluation may be waived (21 CFR 801.421(a)(2)). In California, the direct observation of a purchaser's ear canals, performed by either a physician and surgeon, audiologist, or hearing aid dispenser, may not be waived (BPC 2538.23(a)(3)).
- d. *Signed statement***. In California, a seller must obtain a signed statement from either a California-licensed physician and surgeon, audiologist, or a hearing aid dispenser verifying that the professional performed the direct observation of a purchaser's ear canals and advised the purchaser to consult with a physician upon becoming aware of the conditions outlined in "Warning to Hearing Aid Dispensers," located at 21 CFR 801.420(c)(2). ((BPC 2538.23(a)(3)). There is no federal requirement that the seller obtain such a signed statement. Rather, the

⁴ The Legislative history for SB 933 is not included as that legislative change only dealt with the repeal and relocation of the law at issue, the text of which was unchanged.

“Warning to Hearing Aid Dispensers” is included in the User Instructional Brochure that accompanies the hearing aid (21 CFR 801.420(c)(2)).

- e. ***Seller must retain above statement for seven years*** (BPC 2538.23(b)). Under the Federal regulations, a hearing aid dispenser shall retain copies of any written statements regarding the medical evaluation or waiver requirement for three years (21 CFR 801.421(d)).

(3) Problems Addressed by BPC 2538.23

- a. California law requires a license for selling hearing aids via catalog or direct mail. This requirement provides the Board with jurisdiction over catalog and mail transactions and the authority to regulate the same. This requirement was adopted to address problems with fraud and misconduct by catalog and mail sellers of hearing aids, like non-delivery or delivery of inferior product (APPENDIX E, Letter dated 7/12/90 to governor from Sen. Rosenthal). Prior to this law, the Board did not have the authority to discipline fraudulent hearing aid dispensers selling through catalog or mail. Now, the Board may investigate complaints and take appropriate disciplinary action against the catalog or mail order licensee. (APPENDIX B, p. 2; APPENDIX C, Form DF-43, p. 2; APPENDIX D, document entitled Assembly Health Committee Republican Analysis, p. 1).
- b. BPC 2538.23 prohibits licensed hearing aid dispensers from rendering professional services in catalog or mail transactions to protect consumers. The fitting, adaptation, selection, or proper testing of a hearing aid, or the taking of an ear mold or the giving of advice regarding the taking of an ear impression for an ear mold cannot be effectively done by a hearing aid dispenser, sight unseen, via catalog or mail order. In these cases, the hearing aid received will likely not provide the consumer with the hearing assistance that was promised or expected with respect to fit, size, and functioning. In worst cases, an improper hearing aid may actually harm the consumer. On the other hand, if a consumer purchases a hearing aid ‘as is’ through mail order or catalog, that consumer may then consult a hearing aid dispenser in person to address fit, size, and function, considering that consumer’s particular hearing impairment.
- c. California law requires examination of the prospective consumer's ear canal by a licensed: physician, audiologist, or a hearing aid dispenser, and evaluation for medical clearance for hearing aid use by a licensed physician. Allowing for a waiver of this requirement places a consumer at risk, as underlying medical conditions that result in hearing loss and which may require medical or surgical management beyond simple rehabilitation of hearing with amplification devices may go undetected. Such conditions include but are not limited to: canal atresia, canal stenosis, cerumen impaction, exostoses, otitis externa, tympanic membrane perforation, congenital ossicular chain abnormalities, acquired ossicular chain abnormalities, otosclerosis, chronic otitis media, cholesteatoma, mastoiditis with or without intracranial complications (including meningitis, brain abscess, lateral sinus thrombosis, and otitic hydrocephalus), glomus tympanicum / glomus jugulare / and other middle ear tumors, meningioma, acoustic neuroma, and other intracranial tumors. All of these conditions require medical and or surgical management, and many of these conditions are life threatening if not appropriately diagnosed and treated medically or surgically by a physician.

- d. BPC 2538.23 (a)(3) requires the seller retain a signed statement from the professional who observed the prospective hearing aid user, as the signature verifies the content and validity of the document by the individual.
- e. California requires that the above documentation be kept for seven years. Since the Board has no statute of limitations for prosecuting cases, a longer document retention time means that the Board may investigate older cases. The length of seven years has been determined by other health care boards to be a reasonable length of time by which to commence action. For example, the Medical Board of California, with certain exceptions, must file an accusation against a licensee within seven years after the alleged act or omission occurs. (BPC 2230.5).⁵ In the hearing aid context, an act or omission subject to discipline may be evidenced by the documentation (or lack thereof) required by the statute at issue.

(4) Basis for Exemption Request

The Board relies upon the fact that its statute is more stringent than a requirement applicable to a device under federal regulation.

- a. Requiring a seller to hold a hearing aid dispenser's license is more stringent than not requiring the same. The reason for this more stringent requirement is outlined in Item (3)a., above.
- b. Prohibiting the rendering of professional hearing aid dispenser services for catalog or mail sales is more stringent than allowing the same. The reason for this more stringent requirement is outlined in Item (3)b., above.
- c. Requiring an observation of the ear canals is more stringent than not requiring the same. The reason for this more stringent requirement is outlined in Item (3)c., above.
- d. Requiring a signed statement verifying that the requirements for ear canal observation and advice to consult with a physician have been complied with is more stringent than not requiring the same. The reason for this more stringent requirement is outlined in Item (3)d., above.
- e. Requiring a seller to maintain documentation for seven years is more stringent than requiring a seller to maintain the same for three years. The reason for this more stringent requirement is outlined in Item (3)e., above.

(5) Title of Officer

I, Annemarie Delmugnaio, Executive Officer of the Board, am the officer that has primary responsibility for administration of the Board's laws and regulations.

(6) Records of Administration

⁵ BPC 2230.5(a) reads, in pertinent part: "...an accusation filed against a licensee... shall be filed within three years after the board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first."

Commissioner of Food and Drugs
April *, 2012

Upon request, the Board will furnish the FDA records concerning administration of the requirement for which the Board is seeking exemption, namely, BPC section 2538.23, to the extent allowable by law. The Board reserves the right to withhold confidential or privileged documents, or documents that are subject to non-disclosure.

(7) Public Health and Interstate Commerce

Public health will be benefitted in the manner set forth in Item 3. The Board does not believe that interstate commerce will be affected any more than commerce within California, as the bar to internet sales applies to in-state and out-of-state companies alike. Similarly, the requirement that catalog and mail order sellers be hearing aid dispensers licensed in California applies to in-state and out-of-state sellers alike.

(8) Other Pertinent Information

California has already obtained two exemptions from federal pre-emption, for BPC 2538.35 (formerly BPC 3365) and BPC 2538.37 (formerly BPC 3365.6) (21 CFR 808.55(a)).

If you have any questions on the foregoing, or need additional information, I may be reached at (916) 263-2909.

Sincerely,

ANNEMARIE DELMUGNAIO
Executive Officer
Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board



Date: December 15, 2012

To: Interested Parties: Hearing Aid Dispensing

Re: Hearing Aid Dispensing Advertising Provisions

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (SLPAHADB) is proposing changes to its advertising provisions to improve clarity and to address common industry advertising practices that may be misleading to the public.

Since the advertisements of such products and services have a direct impact on the choices our consumers make, our goal is to construct advertising provisions that conform to current law and require informative, clear and concise statements that enable consumers to make informed decisions regarding their hearing healthcare needs. To that end, we are seeking input from consumer groups and industry professionals on practical amendments to our current advertising provisions.

We are requesting your input on the following advertising issues that have been presented to the Board by the public in the form of a complaint or general concern. Also, please review the actual advertising provisions that follow and note the underline and *italicized* text which reflects proposed changes to the current advertising regulations. When reviewing the proposed changes, please reference existing law, Business and Professions Code Section 651 (attached) as regulations regarding hearing aids and hearing aid dispensing must conform to the enabling law.

Comments may be submitted via email at speechandhearing@dca.ca.gov, facsimile at (916) 263-2668, or by regular mail at the Board office address above. Please send your comments to the Board no later than January 31, 2012.

Advertising Issues for Consideration:

- A requirement that advertisements include a statement indicating that a *hearing test* is not a medical diagnosis.
- A restriction on advertisements that invite a specified number of people to participate in a “trial offer” for new hearing aids/new technology with an offer of “discounted” hearing aids.
Note: Such advertisements may be misinterpreted as research studies when in fact these offers are marketing strategies.
- Address advertising guidelines for using the title “Audioprosthologist.”
- Add provisions requiring hearing aid dispensers to include their name and license number on advertisements for the specific hearing aid location listed.
- Further clarify existing regulations regarding the manner which discount pricing for hearing aids should be advertised to the public, e.g., restrict the terms “as low as” or “up to \$__.”
{Section B&P Code 651(c)}
- Clarify the manner in which professional certifications should be represented to the public. {See CCR Section 1399.127 item 9}

California Code of Regulations- Hearing Aid Dispensers: Advertising

1399.127. Advertising.

(a) A licensed hearing aid dispenser may advertise any goods or services authorized to be provided by such license in a manner authorized by Section 651 of the code so long as such advertising does not promote the unnecessary or excessive use of such goods or services.

(b) An advertisement violates Section 651 of the code when it:

(1) Is not exact, and any conditions or other variables to an advertised price are not disclosed.

(2) Includes a statement of price comparison that is not based upon verifiable data.

(3) Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.

When advertising a specific hearing aid model:

Correct: 50% off Acme Model 12
Regularly \$1000, Now \$500 **OR**
Acme Model 12
50% off Manufacturer's Suggested Retail Price

Incorrect: 50% off Acme hearing aid

When advertising a category of hearing aids (e.g. all models from one manufacturer or all BTE models):

Correct: 50% off Manufacturer's Suggested Retail Price
All Acme Hearing Aids

Incorrect: Acme Hearing Aids - 50% Off

Correct: 50% off Manufacturer's Suggested Retail Price, All Hearing Aids
Offer good January 1-7, 1998 (or Offer expires January 7, 1998)

Incorrect: 50% off Manufacturer's Suggested Retail Price, All Hearing Aids

(4) Utilizes a business name that is so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.

Correct: Delta Hearing Aid Center

Incorrect: Delta Hearing Center

(5) Advertises hearing tests without qualification as to the nature of the hearing testing that may be performed by a hearing aid dispenser.

Correct: Test to determine if you could be helped by a hearing aid and not a medical diagnosis

Incorrect: Hearing test

(6) Includes sending to a consumer preset appointment information or "rebate coupons" that resemble checks as part of a direct mail solicitation.

(7) Includes an educational degree but does not list the degree and field, or includes the title "Dr." where the degree is a non-medical doctorate and the advertisement does not disclose that fact.

Correct: John Doe, Ph.D. in Audiology Jane Doe, M.A. in Audiology
John Doe, Ph.D. (Audiology) Jack Doe, B.A. (Audiology)

Incorrect: Dr. John Doe Jane Doe, M.A.
Dr. John Doe (Audiology) Jack Doe, B.A.

(8) Includes abbreviations for job titles or job certifications as letters after a name where those letters do not represent an academic degree or credential.

(9) Refers to a dispenser's certification by a professional organization but either does not include the name of the certifying organization or, includes the name written in a manner not easily understood by consumers.

Correct: John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
BC-HIS, Certified by the National Board of Certification in Hearing
Instrument Sciences

Incorrect: John Doe, BC-HIS

Correct: John Doe, ACA
Certified by the American Conference of Audioprosthology
Audioprosthologist
Hearing Aid Dispenser License No. HA-xxxx

Incorrect: John Doe, ACA, BC-HIS
Audioprosthologist

(10) Includes the term "specialist" when referencing licensure without including the title "hearing aid dispenser."

Correct: Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Dispenser
John Doe, Hearing Instrument Specialist
Hearing Aid Dispenser Lic. No. HA-xxxx

Incorrect: Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Specialist

(11) Includes phrases such as "as low as", "and up or up to", "lowest prices", or words or phrases of similar import.

(12) Includes information that leads one to believe that the offer of new technology is part of a research project when it is not.

Example: Wanted 30 People...to try new hearing aid technology...receive a discount if candidate for the program

(c) Any national advertisement run in California shall comply with California laws and regulations.

(d) All forms of advertising for a specific location shall include a hearing aid dispenser's name and license number.

Example: Jack Doe, HA-1234

Attachment: Business and Professions Code Section 651

0208 - Hearing Aid Dispensers

Analysis of Fund Condition

Prepared 4/5/2012

(Dollars in Thousands)

2012-13 Governor's Budget

	Actual 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14
BEGINNING BALANCE	\$ 1,052	\$ 734	\$ -	\$ -
Prior Year Adjustment	\$ 6	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,058	\$ 734	\$ -	\$ -
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 3	\$ 6	\$ -	\$ -
125700 Other regulatory licenses and permits	\$ 140	\$ 94	\$ -	\$ -
125800 Renewal fees	\$ 386	\$ 297	\$ -	\$ -
125900 Delinquent fees	\$ 4	\$ 3	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 5	\$ 1	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 1	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 539	\$ 401	\$ -	\$ -
Transfers from Other Funds				
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 539	\$ 401	\$ -	\$ -
Totals, Resources	\$ 1,597	\$ 1,135	\$ -	\$ -
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	\$ 2			
8860 FSCU (State Operations)			\$ -	\$ -
HR Mod Project				
1110 Program Expenditures (State Operations)	\$ 861	\$ 591	\$ -	\$ -
1111 Program Expenditures (State Operations)				
8880 Financial Information System for CA (State Operations)				
Total Disbursements	\$ 863	\$ 591	\$ -	\$ -
FUND BALANCE				
Reserve for economic uncertainties	\$ 734	\$ 544	\$ -	\$ -
Months in Reserve	14.9	0.0	0.0	0.0

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. INTEREST ON FUND ESTIMATED AT 1%
- C. ASSUMES APPROPRIATION GROWTH OF 2% IN FY12-13 AND ONGOING

0376 - Speech-Language Pathology and Audiology Analysis of Fund Condition

Prepared 4/5/2012

NOTE: \$1.15 Million Dollar General Fund Repayment Outstanding

2012-13 Governor's Budget

	Actual 2010-11	CY 2011-2012	Governor's Budget BY 2012-13	BY+1 2013-14	BY+2 2014-15
BEGINNING BALANCE	\$ 1,217	\$ 1,164	\$ 589	\$ 532	\$ 462
Prior Year Adjustment	\$ -121	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,096	\$ 1,164	\$ 589	\$ 532	\$ 462
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	\$ 10	\$ 18	\$ 18	\$ 18	\$ 12
125700 Other regulatory licenses and permits	\$ 80	\$ 78	\$ 78	\$ 78	\$ 87
125800 Renewal fees	\$ 668	\$ 683	\$ 696	\$ 696	\$ 696
125900 Delinquent fees	\$ 15	\$ 16	\$ 16	\$ 16	\$ 17
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 6	\$ 12	\$ 1	\$ 5	\$ 4
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 1	\$ 1	\$ 1	\$ 1	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -	\$ -	\$ -
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 780	\$ 808	\$ 810	\$ 814	\$ 816
Transfers from Other Funds					
Proposed FY 11-12 GF Loan Repay	\$ -	\$ -	\$ -	\$ -	
Transfer from Hearing Aid Dispensers		\$ 544			
Transfers to Other Funds					
Proposed FY 11-12 GF Loan		\$ -1,150			
Totals, Revenues and Transfers	\$ 780	\$ 202	\$ 810	\$ 814	\$ 816
Totals, Resources	\$ 1,876	\$ 1,366	\$ 1,399	\$ 1,346	\$ 1,278
EXPENDITURES					
Disbursements:					
8860 FSCU (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)		\$ 3			
0840 State Controller (State Operations)		\$ 1			
HR Mod Project					
1110 Program Expenditures (State Operations) -	\$ 712	\$ 773	\$ 867	\$ 884	\$ 902
1111 Program Expenditures (State Operations) -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 712	\$ 777	\$ 867	\$ 884	\$ 902
FUND BALANCE					
Reserve for economic uncertainties	\$ 1,164	\$ 589	\$ 532	\$ 462	\$ 376
Months in Reserve	18.0	8.2	7.2	6.1	4.9

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. INTEREST ON FUND ESTIMATED AT 1%
- C. ASSUMES APPROPRIATION GROWTH OF 2% IN FY12-13 AND ONGOING

**HEARING AID DISPENSERS BOARD - 0208
BUDGET REPORT
FY 2011-12 EXPENDITURE PROJECTION**

February 29, 2012

OBJECT DESCRIPTION	FY 2010-11		FY 2011-12				
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES 2/28/2011	BUDGET STONE 2011-12	CURRENT YEAR EXPENDITURES 2/29/2012	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	186,645	111,060	116,658	119,066	102%	119,066	(2,408)
Temp Help Reg (Seasonals)	0	0	0				0
Temp Help (Exam Proctors)	1,384	903	0				0
Board Member Per Diem			0				0
Committee Members (DEC)	0	0	5,822	600	10%	600	5,222
Overtime	2,185	749	0	5,675		5,675	(5,675)
Staff Benefits	65,138	41,479	43,020	39,686	92%	39,686	3,334
Salary Savings	0	0	(4,000)	0	0%	0	(4,000)
TOTALS, PERSONNEL SVC	255,352	154,191	161,500	165,027	102%	165,027	(3,527)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	2,270	1,039	13,496	1,738	13%	1,738	11,758
Fingerprint Reports	129	0	9,000	153	2%	153	8,847
Minor Equipment	1,113		3,000		0%	0	3,000
Printing	1,107	899	9,429	0	0%	0	9,429
Communication	1,792	959	8,577	182	2%	182	8,395
Postage	14,119	9,263	12,742	6,855	54%	6,855	5,887
Insurance			144	0	0%	0	144
Travel In State	4,072	233	1,000	5,148	515%	5,148	(4,148)
Travel, Out-of-State			0			0	0
Training	500	0	489	0	0%	0	489
Facilities Operations	51,806	41,935	47,693	7,140	15%	7,140	40,553
Utilities			0			0	0
C & P Services - Interdept.	0	0	35,137	0	0%	0	35,137
C & P Services - External			0			0	0
DEPARTMENTAL SERVICES:							
Departmental Pro Rata	35,339	23,791	36,463	18,558	51%	18,558	17,905
Admin/Exec	44,385	29,571	32,787	15,883	48%	15,883	16,904
Interagency Services	0	0	96	0	0%	0	96
IA w/ OER	113,858	32,210	29,351	0	0%	0	29,351
DOI-ProRata Internal	873	649	28	14	50%	14	14
Public Affairs Office	1,866	1,329	2,245	1,123	50%	1,123	1,122
CCED	73,095	52,136	456	274	60%	274	182
INTERAGENCY SERVICES:							
Consolidated Data Center	330	6,000	2,555	148	6%	148	2,407
DP Maintenance & Supply	8	0	271	0	0%	0	271
Central Admin Svc-ProRata	25,837	19,378	49,578	24,789	50%	24,789	24,789
EXAM EXPENSES:							
Exam Rent-Non State	0	0	7,663	0	0%	0	7,663
C/P Svcs-External Expert Administrative	6,759	15,250	25,042	3,286	13%	3,286	21,756
C/P Svcs-External Expert Examiners	0	0	37,913	0	0%	0	37,913
C/P Svcs-External Subject Matter	34,249	10,163		22,097		22,097	(22,097)
C/P Svcs-Ext Subj Matter Expert - Travel							0
ENFORCEMENT:							
Attorney General	23,343	7,935	41,995	32,309	77%	32,309	9,686
Office Admin. Hearings	0	0	16,637	80	0%	80	16,557
Court Reporters							0
Evidence/Witness Fees	93	0	1,277	0	0%	0	1,277
DOI - Investigations	175,790	127,238	0			0	0
Major Equipment	0	0				0	0
Special Adjustments				295,340		295,340	(295,340)
Other (Vehicle Operations)	0	0	15,000	0	0%	0	15,000
TOTALS, OE&E	612,733	379,978	440,064	435,117	99%	435,117	4,947
TOTAL EXPENSE	868,085	534,169	601,564	600,144	201%	600,144	1,420
Sched. Reimb. - Fingerprints	(118)	(16)	(9,000)	(102)	1%	(9,000)	0
Sched. Reimb. - Other	(235)	(235)					0
Unsched. Reimb. - Other	(6,743)	(5,249)		(747)			0
NET APPROPRIATION	860,989	528,669	592,564	599,295	101%	591,144	1,420
SURPLUS/(DEFICIT):							0.2%

Speech-Language Pathology and Audiology Board - 0376
BUDGET REPORT
FY 2011-12 EXPENDITURE PROJECTION

February 29, 2012

SLPA/HADB Merger 1/1/2012
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OBJECT DESCRIPTION	FY 2010-11		FY 2011-12				
	ACTUAL EXPENDITURES	PRIOR YEAR EXPENDITURES	BUDGET STONE	CURRENT YEAR EXPENDITURES	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
	(MONTH 13)	2/28/2011	2011-12	2/29/2012			
PERSONNEL SERVICES							
Salary & Wages (Staff)	178,341	129,689	168,838	100,452	59%	151,007	17,831
Statutory Exempt (EO)	76,385	50,399	81,732	53,229	65%	80,473	1,259
Temp Help Reg (Seasonals)	14,153	8,615	876	6,965	795%	11,352	(10,476)
Temp Help (Exam Proctors)	0	0	0	0		0	0
Board Member Per Diem	0	0	5,854	0	0%	0	5,854
Committee Members (DEC)	3,000	2,600	0	2,900		3,800	(3,800)
Overtime	1,645	876	0	6,074		10,000	(10,000)
Staff Benefits	117,483	81,485	109,085	75,982	70%	114,222	(5,137)
Salary Savings	0	0	(6,495)	0	0%	0	(6,495)
TOTALS, PERSONNEL SVC	391,007	273,664	359,890	245,602	68%	370,854	(10,964)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	7,877	3,260	33,798	5,299	16%	7,600	26,198
Fingerprint Reports	6,936	3,570	19,439	5,202	27%	10,500	8,939
Minor Equipment	452	0	0	0		1,000	(1,000)
Printing	2,743	1,333	14,964	2,211	15%	5,000	9,964
Communication	5,200	2,084	8,450	2,103	25%	3,500	4,950
Postage	6,448	4,448	10,598	5,405	51%	9,000	1,598
Travel In State	7,913	788	10,999	6,173	56%	9,200	1,799
Travel, Out-of-State	0	0	0	0		0	0
Training	393	0	2,313	978	42%	1,500	813
Facilities Operations	60,973	60,606	64,576	42,413	66%	43,000	21,576
C & P Services - Interdept.	0	0	2,753	0	0%	0	2,753
C & P Services - External	0	0	0	0		0	0
DEPARTMENTAL SERVICES:							
Departmental Pro Rata	65,315	44,873	81,533	54,809	67%	81,533	0
Admin/Exec	42,805	28,512	41,694	27,343	66%	41,694	0
Interagency Services	0	0	93	0	0%	0	93
IA w/ OER	0	0	0	0		0	0
DOI-ProRata Internal	1,479	1,103	1,688	1,126	67%	1,688	0
Public Affairs Office	3,146	2,241	2,866	1,911	67%	2,866	0
CCED	2,045	1,362	2,942	1,961	67%	2,942	0
INTERAGENCY SERVICES:							
Consolidated Data Center	755	2,000	5,460	281	5%	1,000	4,460
DP Maintenance & Supply	2,376	0	3,806	176	5%	1,000	2,806
Central Admin Svc-ProRata	27,014	20,261	24,309	18,232	75%	24,309	0
EXAM EXPENSES:							
Exam Supplies	0	0	0	0		0	0
Exam Freight	0	0	0	0		0	0
Exam Site Rental	0	0	0	0		0	0
C/P Svcs-External Expert Administrative	0	0	0	0		0	0
C/P Svcs-External Expert Examiners	0	0	0	0		0	0
C/P Svcs-External Subject Matter	10,864	10,864	0	0		0	0
ENFORCEMENT:							
Attorney General	47,135	18,988	48,572	46,964	97%	55,000	(6,428)
Office Admin. Hearings	3,960	690	5,112	8,864	173%	16,000	(10,888)
Court Reporters	585	0	0	143		600	(600)
Evidence/Witness Fees	5,263	225	6,428	4,856	76%	7,000	(572)
DOI - Investigations	32,176	23,289	79,245	52,831	67%	79,000	245
Major Equipment	0	0	0	0		0	0
Other - Clothing & Pers Supp	145	145	0	0		0	0
Special Items of Expense	0	0	0	0		0	0
Other (Vehicle Operations)	0	0	0	0		0	0
TOTALS, OE&E	343,998	230,642	471,638	289,281	61%	404,932	66,706
TOTAL EXPENSE	735,005	504,306	831,528	534,883	130%	775,786	55,742
Sched. Reimb. - Fingerprints	(7,803)	(3,517)	(22,000)	(5,610)	26%	(7,800)	(14,200)
Sched. Reimb. - Other	(8,120)	(3,840)	(2,000)	(4,025)	201%	(8,100)	6,100
Distributed	0	0	(35,000)	0	0%	0	(35,000)
Unsched. Reimb. - Other	(6,916)	(6,333)	0	(1,556)		(6,900)	6,900
NET APPROPRIATION	712,166	490,616	772,528	523,692	68%	752,986	19,542
SURPLUS/(DEFICIT):							2.5%



SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD

FINAL STATEMENT OF REASONS

Hearing Date: The Board did not hold a public hearing on the proposed regulations.

Subject Matter of Proposed Regulations: Enforcement Program Enhancements

Section(s) Affected: Title 16, Division 13.4, California Code of Regulations Sections
1399.110; 1399.130; 1399.130.1; 1399.131; 1399.150.3; 1399.151;
1399.155; 1399.156; & 1399.156.5

Updated Information

The Initial Statement of Reasons is included in the file (Attachment _).

The Board voted to adopt the proposed language at its January 27, 2011 Board meeting.

During the 2011 legislative session, the hearing aid dispensers' statutes previously codified in Chapter 7.5 of the Business and Professions Code commencing with Section 3300 et. seq.) were merged with the speech-language pathology and audiology provisions under Chapter 5.3. This consolidated and renumbered all the hearing aid dispensers' statutes. Thus, references included in the proposed regulatory language and the authority and reference citations must be updated to reflect the new statutes. The references to the statutes have been updated in the proposed text as contained in the Order of Adoption.

The Board updated the authority citations in the proposed regulations as some of the Business and Professions Code Sections which should have been cited in the specific language as references to existing statutory authority were omitted. The following Business and Professions Code sections were added to the authority citations:

- Section 1399.130.1 – Sections 475 & 480
- Section 1399.131 – Section 475
- Section 1399.150.3- Sections 475, 480 & 496
- Section 1399.155 – Sections 475 & 480
- Section 1399.156.5 – Section 475 & 480

Local Mandate

A mandate is not imposed on local agencies or school districts.

Business Impact

The Board has determined that the proposed regulatory action would have no adverse economic impact affecting businesses. The Board does not license businesses; rather, it licenses individuals to practice as licensed speech-language pathologists, audiologists, and hearing aid dispensers. Licensees may work for businesses and, thus there may be an indirect impact to a business if an individual licensee employed by a business is subject to discipline as a result of the proposed regulations, resulting in the revocation, suspension, or other punitive action. The Board has approximately 17,000 licensees.

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.

Summary of Comments Received During the 45-Day Comment Period:

The Board received one comment during the 45-day public comment period from the Center of Public Interest Law in support of the proposed regulations.

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

Order of Adoption

**TITLE 16 CALIFORNIA CODE OF REGULATIONS
DIVISION 13.3**

**ARTICLE 2
APPLICATIONS**

§ 1399.110. Applications.

In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice hearing aid dispensing safely because the applicant's ability to practice may be impaired due to mental or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available to the applicant. If after receiving the evaluation report the board determines that the applicant is unable to safely practice, the board may deny the application.

NOTE: Authority cited: Sections ~~3328~~ 2531.95, Business and Professions Code. **Reference:** Sections ~~3352~~ 2538.24 and ~~3357~~ 2538.28, Business and Professions Code.

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**ARTICLE 6
ENFORCEMENT**

§ 1399.130. Violations

Notwithstanding the causes for action listed under ~~3404~~ 2533 of the Code, the Board may deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

(a) Commission of an act of sexual abuse or misconduct.

(b) To the extent a licensee has control over the terms of an agreement; including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:

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

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

(c) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel.

This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

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

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

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

(2) The arrest of the licensee.

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

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

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

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

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§ 1399.130.1. Required Actions Against Registered Sex Offenders

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

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

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

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

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

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to deny or discipline a licensee under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph

shall prohibit the board from exercising its discretion to deny a license or discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

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

NOTE: **Authority cited:** Sections 475, 480, & 2531.95, Business and Professions Code. Reference: Section 2533 Business and Professions Code.

1399.131. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the ~~director-board~~ shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" Sixth Edition, June 1997 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the ~~director board~~ in his or her its sole discretion determines that the facts of the particular case warrant such a deviation -- for example: the presence of mitigating factors; the age of the case; evidentiary problems.

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

As used in this section, the term "sex offense" shall mean any of the following:

(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(b) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a)-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

(c) Any attempt to commit any of the offenses specified in this section.

(d) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section."

NOTE: **Authority cited:** Sections ~~3328~~ 475, 2531.95, Business and Professions Code; Sections 11400.20 and 11425.50(e), Government Code. Reference: Sections ~~729, 3400, 2533.2, 3401, 2533, 3402~~ 2538.40 and ~~3403, 2533.1~~ Business and Professions Code; and Sections 11400.20, ~~and~~ 11425.50(e), and 11500, Government Code; and Section 44010, Education Code.

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DIVISION 13.4

ARTICLE 1 GENERAL PROVISIONS

§ 1399.150.3. Delegation of Functions.

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

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

NOTE: Authority cited: Sections 475, 480, 496, and 2531.95, Business and Professions Code. Reference: Sections 2531.4 and 2531.5, Business and Professions Code.

ARTICLE 2 APPLICATION

§ 1399.151. Applications for License.

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

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

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

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

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

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

ARTICLE 6 DISCIPLINARY GUIDELINES

1399.155 Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines July 16, 2004" that are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case and evidentiary problems.

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

As used in this section, the term "sex offense" shall mean any of the following:

(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(b) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a)-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

(c) Any attempt to commit any of the offenses specified in this section.

(d) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section."

NOTE: Authority cited: Sections 475, 480, and 2531.95, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 729, 2533 and 2533.1, Business and Professions Code; ~~and~~ Sections 11400.20, and 11425.50(e), and 11500, Government Code; ~~and~~ Section 44010, Education Code.

ARTICLE 7 DENIAL, SUSPENSION AND REVOCATION OF LICENSURE

§ 1399.156. Unprofessional Conduct.

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

(a) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of the Act or these regulations.

(b) Committing any corrupt act, or any abusive act against a patient, which is substantially related to the qualifications, functions or duties of a speech-language pathologist or audiologist.

(c) Incompetence or negligence in the practice of speech-language pathology or audiology which has endangered or is likely to endanger the health, welfare, or safety of the public.

(d) Commission of an act of sexual abuse or misconduct.

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

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

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

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

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

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

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

(2) The arrest of the licensee.

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

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

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

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

§ 1399.156.5. Required Actions Against Registered Sex Offenders

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

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

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

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

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

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

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

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

NOTE: Authority cited: Sections 475, 480, and 2531.95, Business and Professions Code. Reference: Section 2533, Business and Professions Code; Section 11500, Government Code; and Section 290, Penal Code.

Dated: March 27, 2012

Annemarie Del Mugnaio
Executive Officer
Speech-Language Pathology & Audiology &
Hearing Aid Dispensers Board



TITLE 16 CALIFORNIA CODE OF REGULATIONS SPEECH-LANGUAGE PATHOLOGY ASSISTANT

Article 3. Qualifications for Licensure-Education and Clinical Experience

1399.152.2. Supervised Clinical Experience

(a) Supervised clinical experience within the meaning of Section 2532.2, subdivision (c) of the code shall be in the area for which licensure is sought. Speech-language pathology clinical experience shall be under the supervision of a licensed speech-language pathologist or a speech-language pathologist having qualifications deemed equivalent by the board, and who possesses at least two years of full-time experience providing services as a speech-language pathologist. Audiology clinical experience shall be under the supervision of a licensed audiologist or an audiologist having qualifications deemed equivalent by the board, and who possesses at least two years of full-time experience providing services as an audiologist. "Qualifications deemed equivalent by the board" includes a supervisor who holds the legal authorization to practice in the field for which licensure is sought in the state where the experience is being obtained, if the supervised clinical experience is obtained in a setting which is exempt from the licensure requirements of the Act or out of state.

(b) Two hundred seventy-five (275) clock hours of clinical experience shall be required for licensure as a speech-language pathologist or audiologist for applicants who completed their graduate program on or before December 31, 1992.

(c) Three hundred (300) clock hours of clinical experience in three (3) different clinical settings shall be required for licensure as a speech-language pathologist or audiologist for applicants who completed their graduate program after December 31, 1992.

(d) Twenty-five (25) hours of the required clinical experience may be in the field other than that for which the applicant is seeking licensure (speech-language pathology for an audiologist or audiology for a speech-language pathologist) if such clinical experience is under a supervisor who is qualified in the minor field as provided in subsection (a).

NOTE: Authority cited: Section 2531.95, Business and Profession Code. Reference: Section 2532.2, Business and Profession Code.

Article 4. Qualifications for Licensure-Required Professional Experience

1399.153. Definitions.

As used in this article, the term:

(a) "Required professional experience" or "RPE" means the supervised practice of speech-language pathology or audiology for the purpose of meeting the requirements for licensure in accordance with Sections 2530.5, subdivision (f), and 2532.2, subdivision (d), of the code and these regulations.

(b) "Required professional experience supervisor" or "RPE supervisor" means a person who is licensed as a speech-language pathologist or audiologist in the field for which licensure is sought, or has qualifications deemed equivalent by the board, and who possesses at least two years of full-time experience providing services in the field for which licensure is sought. "Qualifications deemed equivalent by the board" include a supervisor who holds legal authorization to practice in the state where the experience is being obtained in the field for which licensure is sought if the required professional experience is obtained in a setting which is exempt from the licensure requirements of the Act or out of state.

(c) "Required professional experience temporary license holder" or "RPE temporary license holder" means a person who has complied with Section 1399.153.2 of these regulations.

NOTE: Authority cited for Article 4 (Sections 1399.160 - 1399.168): Section 2531.95, Business and Professions Code. Reference: Section 2532.2, Business and Professions Code.

Article 12. Speech-Language Pathology Assistants

1399.170. Definitions.

As used in this article:

(a) "Accountability" means being legally responsible and answerable for actions and inaction's of self or others during the performance of a task by the speech-language pathology assistant.

(b) "Client" shall have the same meaning and effect as the term "patient" and "student," when referring to services provided in a school setting, for purposes of interpreting the provisions in this Article.

(c) "Direct supervision" means ~~on-site~~ observation and guidance by the supervising speech-language pathologist provided on-site or via electronic means, while a clinical activity is performed by the speech-language pathology assistant. Direct supervision performed by the supervising speech-language pathologist may include, but is not limited to, the following: observation of a portion of the screening or treatment procedures performed by the speech-language pathology assistant, coaching the speech-language pathology assistant, and modeling for the assistant.

(d) "Immediate supervision" means the supervising speech-language pathologist is physically present during services provided to the client by the speech-language pathology assistant.

(e) "Indirect supervision" means the supervising speech-language pathologist is not at the same facility or in close proximity to the speech-language pathology assistant, but is available to provide supervision by electronic means. Indirect supervision activities performed by the supervising speech-language pathologist may include, but are not limited to, demonstration, record review, review, and evaluation of audio or video-taped sessions, interactive television, and supervisory conferences that may be conducted by telephone or electronic mail.

(f) "Medically fragile" is the term used to describe a client that is acutely ill and in an unstable condition and if treated by a speech-language pathology assistant, immediate supervision by a speech-language pathologist is required.

(g) "Screening" is a pass-fail procedure to identify, without interpretation, clients who may require further assessment following specified screening protocols developed by the supervising speech-language pathologist.

(h) "Supervision" for the purposes of this article, means the provision of direction and evaluation of the tasks assigned to a speech-language pathology assistant. Methods for providing supervision include direct supervision, immediate supervision, and indirect supervision.

(i) "Support personnel" means individuals who, following academic and/or on-the-job training, perform tasks as prescribed, directed, and supervised by a speech-language pathologist. There are different levels of support personnel based on training and scope of responsibilities.

NOTE: Authority Cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference Cited: Section 2538.1(b), Business and Professions Code.

1399.170.4. Application for Approval of Speech-Language Pathology Assistant Training Programs.

(a) To be eligible for approval by the Board as a speech-language pathology assistant training program (hereinafter referred to as "program"), the sponsoring institution shall be accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(b) An educational institution seeking approval of a speech-language pathology assistant program shall:

(1) Notify the Board in writing, by submitting a request from the officially designated representative of the sponsoring institution and the speech-language pathology assistant program director, of who must hold a valid and clear license in speech-language pathology or equivalent credentials, of its intent to offer a new program.

(2) No later than six (6) months prior to the enrollment of students, submit a formal proposal to the Board demonstrating how the program will meet the requirements of Sections 1399.170.5. through 1399.170.10. The Board, at its sole discretion, may retroactively approve programs that enrolled students prior to the effective date of the regulations.

(c) The Board shall review the request and formal proposal and may thereafter grant or deny approval. The Board may request additional information to evaluate the request for approval and shall notify the program of its decision in writing within sixty (60) days from receipt of all requested documents.

(d) A material misrepresentation by the program of any information required to be submitted to the Board may be grounds for denial of approval or removal of the program from the approved list.

NOTE: Authority Cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference Cited: Section 2538.1(b)(2), Business and Professions Code.

1399.170.6. Requirements of the Sponsoring Institution.

(a) Responsibilities of the sponsoring institution and of each field work site shall be clearly established by formal agreement or memorandum of understanding.

(b) The sponsoring institution shall assume primary responsibility for receiving and processing applications for student admissions, curriculum planning, selection of course content, coordination of classroom teaching and supervised field work, appointment of faculty, and granting the completion certificate or degree, or otherwise documenting satisfactory completion of the program.

(c) Student records including admission, enrollment, academic performance directed observation, field work clock hours, and demonstration of field work competencies shall be maintained by the sponsoring institution according to its policies. Grades and credits for courses must be recorded on students' transcripts and shall be maintained by the sponsoring institution. Hours for field work experiences and supervision shall be recorded and documented by supervisory staff.

(d) The program director of the sponsoring institution shall be responsible for ensuring that the scope of responsibilities delegated to students during field work experiences are appropriate to the training received and the clients assigned, and consistent with the American Speech-Language-Hearing Association's Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants (1996, Spring ASHA 2004), incorporated herein by reference, and that all approved criteria for speech-language pathology assistant training has been met.

NOTE: Authority Cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference Cited: Section 2538.1(b)(2), Business and Professions Code.

1399.170.10. Required Curriculum.

(a) A program's curriculum shall not be implemented or revised until it has been approved by the Board.

(b) The curriculum shall be designed so that a speech-language pathology assistant who completes the program will have the knowledge and skills necessary to function in accordance with the minimum standards set forth in Section 2538.1(b)(3) of the Business and Professions Code.

(c) The curriculum shall consist of not less than sixty (60) semester units or ninety (90) quarter units, which shall include the following:

(1) Twenty (20) to thirty (30) semester units or thirty (30) to forty-five (45) quarter units in general education requirements, including but not limited to, basic communication skills, knowledge of mathematics, liberal arts, and biological, behavioral and health sciences.

(2) Thirty (30) to forty (40) semester units or forty-five (45) to sixty (60) quarter units in course work that satisfies the competencies curriculum defined in the American Speech-Language-Hearing Association's Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants Appendix-C B-Speech Language Pathology Assistant Suggested Competencies Sample Course Work and Field Work for the Speech-Language Pathology Assistant (1996, Spring ASHA 2004) including the following observation and field work experiences:

(A) A minimum of fifteen (15) clock hours of directed observation; and

(B) A minimum of ~~seventy (70)~~ one-hundred (100) clock hours of field work experience.

(d) The course of instruction shall be presented in semester or quarter units under the following formula:

(1) One (1) hour of instruction in theory each week throughout a semester or quarter equals one (1) unit.

(2) Three (3) hours of field work practice each week throughout a semester or quarter equals one (1) unit.

NOTE: Authority Cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference Cited: Section 2538.1(b)(2), Business and Professions Code.

1399.170.11. Qualifications for Registration as a Speech-Language Pathology Assistant.

To be eligible for registration by the Board as a speech-language pathology assistant, the applicant must possess at least one of the following qualifications:

(a) An associate of arts or sciences degree from a speech-language pathology assistant program accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, and approved by the Board; or

(b) Evidence of completion of a bachelor's degree program in speech-language pathology or communication disorders from an institution listed in the "Accredited Institutions of Postsecondary Education" handbook issued by the American Council on Education, and completion of the field work experience as required in Section 1399.170.10(c)(2)(B) from a Board-approved program, or completion of a minimum of ~~seventy (70)~~ one-hundred (100) hours of field work experience or clinical experience equivalent to that required in Section 1399.170.10(c)(2)(B) in a bachelor's degree program as recognized in this subsection.

(1) The equivalent field work hours or clinical experience completed in a bachelor's degree program in speech-language pathology or communication disorders shall be evaluated for verification by the current training program director.

(2) In the event that the field work experience or clinical experience completed in the bachelor's degree program is deemed deficient by the authorized representative of a board-approved speech-language pathology assistant training program, the applicant may petition the Board for reconsideration.

(3) In lieu of completion of the ~~seventy (70)~~ one-hundred (100) hours of field work experience or clinical experience in a bachelor's degree program as defined in subsection (b) above, the Board may consider the completion of nine months of full-time work experience performing the duties of a speech-language pathology assistant enumerated in paragraph (4) of subsection (b) of Section 2538.1 of the Business and Professions Code as equivalent to the required clinical training.

(c) Evidence of completion of an equivalent speech-language pathology assistant associate of arts or science degree program, which includes the competencies curriculum in the American Speech-Language-Hearing Association's Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants, Appendix C ~~B- Speech-Language Pathology Assistant Suggested Competencies~~ Sample Course Work and Field Work for the Speech-Language Pathology Assistant (1996, Spring ASHA 2004).

NOTE: Authority Cited: Sections 2531.95 and 2538.1, Business and Professions Code. Reference Cited: Section 2538.1(b)(2) and 2538.3(a), Business and Professions Code.

1399.170.15. Requirements for the Supervision of the Speech Language Pathology Assistant.

(a) The supervising speech-language pathologist is responsible for designing and implementing a supervisory plan that protects client care and maintains the highest possible standards of quality. The amount and type of supervision required should be consistent with the skills and experience of the speech-language pathology assistant, the needs of the clients, the service setting, the tasks assigned, and the laws and regulations that govern speech-language pathology assistants. Treatment of the client remains the responsibility of the supervisor.

b) Any person supervising a speech-language pathology assistant registered with the Board on or after April 10, 2001, (hereinafter called "supervisor") shall submit, within thirty (30) days of the commencement of such supervision, the "Responsibility Statement for Supervision of a Speech-Language Pathology Assistant" (77S-60, New 12/99), which requires that:

(1) The supervisor shall possess and maintain a current valid California license as a speech-language pathologist as required in Section 2532 of the Code and Section 1399.160.3 of California Code of Regulations or may hold a valid and current professional clear, clear, or life clinical or rehabilitative services credential in language, speech and hearing issued by the California Commission on Teacher Credentialing, and must have at least two years of full-time experience providing services as a speech-language pathologist.

(2) The supervisor shall immediately notify the assistant of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or lapse in licensure that affects the supervisor's ability or right to supervise.

(3) The supervisor shall ensure that the extent, kind and quality of the clinical work performed is consistent with the training and experience of the person being supervised, and shall be accountable for the assigned tasks performed by the speech-language pathology assistant. The supervisor shall review client/patient records, monitor and evaluate assessment and treatment decisions of the speech-language pathology assistant, and monitor and evaluate the ability of the assistant to provide services at the site(s) where he or she will be practicing and to the particular clientele being treated, and ensure compliance with all laws and regulations governing the practice of speech-language pathology.

(4) The supervisor shall complete not less than six (6) hours of continuing professional development in supervision training ~~in the initial two year period from prior to~~ the commencement of supervision, and three (3) hours in supervision training of continuing professional development every two years thereafter. Continuing professional development training obtained by a Board-approved provider that meets the course content listed below, may be applied towards the continuing professional development requirement for licensees set forth in Section 1399.160.3 of the California Code of Regulations. The content of such training shall include, but is not limited to:

(A) Familiarity with supervision literature through reading assignments specified by course instructors; and

(B) Improving knowledge and understanding of the relationship between the speech-language pathologist and the assistant, and the relationship between the speech-language pathologist and the client.

(C) Structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;

(D) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and

(E) The practice of clinical speech-language pathology including the mandated reporting laws and knowledge of ethical and legal issues.

(5) The supervisor shall maintain records of course completion for a period of two years from the speech-language pathology assistant's renewal date.

(6) The supervisor knows and understands the laws and regulations pertaining to supervision of speech-language pathology assistants.

(7) As the professional development advisor, the supervisor shall assist in the development of a plan for the speech-language pathology assistant to complete twelve (12) hours of continuing professional development every two years through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication disorders.

(8) The supervisor shall communicate to the speech-language pathology assistant the manner in which emergencies will be handled.

(9) Upon written request of the Board, the supervisor shall provide the Board with any documentation which verifies the supervisor's compliance with the requirements set forth in this article.

NOTE: Authority Cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference Cited: Sections 2530.2(f), 2538.1(b)(5), (6), (7), and (9), Business and Professions Code.

**SPEECH-LANGUAGE PATHOLOGY 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) Any hearing aid license that expires on or after January 31, 2013, 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 one-year 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 areas related to hearing aids: related, or indirect client care courses as provided in Section 1399.140.1 ethics (including the ethics of advertising and marketing) or business practices.

(2) Not more than three (3) hours of the required continuing education may be credited for self-study or correspondence-type coursework, e.g., recorded courses, home study materials, or computer courses. Self-study does not include live courses. A self-study course does not mean a course taken at an accredited university towards a degree, nor does it include any interactive courses offered via electronic media where the course affords participants the opportunity to interact with an instructor and/or other course participants.

(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) Any 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. 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 practical 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, incorporated herein by reference, forms (____) 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 Executive Officer of the Board the denial of approval of any course. Such appeal shall be filed with the Executive Officer of the Board not more than 30 days after the date of notice of such denial. The Executive Officer shall notify the provider within ten (10) days of the final decision of the appeal.

(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.

1399.144. Waiver of Requirement.

(a) The board, may, in its discretion exempt from the continuing education requirements, any dispenser who for reasons of health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted to the board for its consideration.

(b) Any dispenser who submits an application for a waiver which is denied by the board, shall otherwise comply with the provisions of this article or be subject to the sanctions for noncompliance set forth in Section 1399.142.

[BOARD NAME]
**BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT
REGULATORY PROGRAM**
As of [date]

Section 1
Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the board.¹ Describe the occupations/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).

Table 1a. Attendance			
[Enter board member name]			
Date Appointed:	[Enter date appointed]		
Meeting Type	Meeting Date	Meeting Location	Attended?
Meeting 1	[Enter Date]	[Enter Location]	[Y/N]
Meeting 2	[Enter Date]	[Enter Location]	[Y/N]
Meeting 3	[Enter Date]	[Enter Location]	[Y/N]
Meeting 4	[Enter Date]	[Enter Location]	[Y/N]

Table 1b. Board/Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re- appointed	Date Term Expires	Appointing Authority	Type (public or professional)

2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?
3. Describe any major changes to the board since the last Sunset Review, including:
 - Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

¹The term "board" in this document refers to a board, bureau, commission, committee, department, division, program or agency, as applicable. Please change the term "board" throughout this document to appropriately refer to the entity being reviewed.

- All legislation sponsored by the board and affecting the board since the last sunset review.
 - All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.
4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).
 5. List the status of all national associations to which the board belongs.
 - Does the board’s membership include voting privileges?
 - List committees, workshops, working groups, task forces, etc., on which board participates.
 - How many meetings did board representative(s) attend? When and where?
 - If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

**Section 2
Performance Measures and Customer Satisfaction Surveys**

6. Provide each quarterly and annual performance measure report as published on the DCA website
7. Provide results for each question in the customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

**Section 3
Fiscal and Staff**

Fiscal Issues

8. Describe the board’s current reserve level, spending, and if a statutory reserve level exists.
9. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.

Table 2. Fund Condition						
(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2009/10	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance						
Revenues and Transfers						
Total Revenue	\$	\$	\$	\$	\$	\$
Budget Authority						
Expenditures						
Loans to General Fund						
Accrued Interest, Loans to General Fund						
Loans Repaid From General Fund						
Fund Balance	\$	\$	\$	\$	\$	\$
Months in Reserve						

10. Describe history of general fund loans. When were the loans made? When were payments made? What is the remaining balance?
11. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

Table 3. Expenditures by Program Component								
	FY 2008/09		FY 2009/10		FY 2010/11		FY 2011/12	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement								
Examination								
Licensing								
Administration *								
DCA Pro Rata								
Diversion (if applicable)								
TOTALS	\$	\$	\$	\$	\$	\$	\$	\$

*Administration includes costs for executive staff, board, administrative support, and fiscal services.

12. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Table 4. Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	FY 2011/12 Revenue	% of Total Revenue

13. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved

Staffing Issues

14. Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.
15. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).

Section 4 Licensing Program

16. What are the board's performance targets/expectations for its licensing² program? Is the board meeting those expectations? If not, what is the board doing to improve performance?
17. Describe any increase or decrease in average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?
18. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

Table 6. Licensee Population					
		FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				

² The term "license" in this document includes a license certificate or registration.

Table 7a. Licensing Data by Type											
	Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2009/10	(Exam)					-	-	-	-	-	-
	(License)					-	-	-	-	-	-
	(Renewal)			n/a		-	-	-	-	-	-
FY 2010/11	(Exam)										
	(License)										
	(Renewal)			n/a							
FY 2011/12	(Exam)										
	(License)										
	(Renewal)			n/a							

* Optional. List if tracked by the board.

Table 7b. Total Licensing Data				
	FY 2009/10	FY 2010/11	FY 2011/12	
Initial Licensing Data:				
Initial License/Initial Exam Applications Received				
Initial License/Initial Exam Applications Approved				
Initial License/Initial Exam Applications Closed				
License Issued				
Initial License/Initial Exam Pending Application Data:				
Pending Applications (total at close of FY)				
Pending Applications (outside of board control)*				
Pending Applications (within the board control)*				
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):				
Average Days to Application Approval (All - Complete/Incomplete)				
Average Days to Application Approval (incomplete applications)*				
Average Days to Application Approval (complete applications)*				
License Renewal Data:				
License Renewed				

* Optional. List if tracked by the board.

19. How does the board verify information provided by the applicant?

- a. What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?
- b. Does the board fingerprint all applicants?
- c. Have all current licensees been fingerprinted? If not, explain.

- d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?
- e. Does the board require primary source documentation?

20. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

21. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

Examinations

Table 8. Examination Data			
California Examination (include multiple language) if any:			
		License Type	
		Exam Title	
FY 2008/09	# of 1 st Time Candidates		
	Pass %		
FY 2009/10	# of 1 st Time Candidates		
	Pass %		
FY 2010/11	# of 1 st Time Candidates		
	Pass %		
FY 2011/12	# of 1 st time Candidates		
	Pass %		
		Date of Last OA	
		Name of OA Developer	
		Target OA Date	
National Examination (include multiple language) if any:			
		License Type	
		Exam Title	
FY 2008/09	# of 1 st Time Candidates		
	Pass %		
FY 2009/10	# of 1 st Time Candidates		
	Pass %		
FY 2010/11	# of 1 st Time Candidates		
	Pass %		
FY 2011/12	# of 1 st time Candidates		
	Pass %		
		Date of Last OA	
		Name of OA Developer	
		Target OA Date	

22. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required?

23. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data)
24. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?
25. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

School approvals

26. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?
27. How many schools are approved by the board? How often are schools reviewed?
28. What are the board's legal requirements regarding approval of international schools?

Continuing Education/Competency Requirements

29. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.
- How does the board verify CE or other competency requirements?
 - Does the board conduct CE audits on its licensees? Describe the board's policy on CE audits.
 - What are consequences for failing a CE audit?
 - How many CE audits were conducted in the past four fiscal years? How many fails?
 - What is the board's course approval policy?
 - Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?
 - How many applications for CE providers and CE courses were received? How many were approved?
 - Does the board audit CE providers? If so, describe the board's policy and process.
 - Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensees' continuing competence.

Section 5 Enforcement Program

30. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?
31. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

Table 9a. Enforcement Statistics			
	FY 2009/10	FY 2010/11	FY 2011/12
COMPLAINT			
Intake (Use CAS Report EM 10)			
Received			
Closed			
Referred to INV			
Average Time to Close	-		
Pending (close of FY)			
Source of Complaint (Use CAS Report 091)			
Public			
Licensee/Professional Groups			
Governmental Agencies			
Other			
Conviction / Arrest (Use CAS Report EM 10)			
CONV Received			
CONV Closed			
Average Time to Close	-		
CONV Pending (close of FY)			
LICENSE DENIAL (Use CAS Reports EM 10 and 095)			
License Applications Denied			
SOIs Filed			
SOIs Withdrawn			
SOIs Dismissed			
SOIs Declined			
Average Days SOI	-		
ACCUSATION (Use CAS Report EM 10)			
Accusations Filed			
Accusations Withdrawn			
Accusations Dismissed			
Accusations Declined			
Average Days Accusations	-		
Pending (close of FY)			

Table 9b. Enforcement Statistics (continued)			
	FY 2009/10	FY 2010/11	FY 2011/12
DISCIPLINE			
Disciplinary Actions (Use CAS Report EM 10)			
Proposed/Default Decisions			
Stipulations			
Average Days to Complete	-		
AG Cases Initiated			
AG Cases Pending (close of FY)			
Disciplinary Outcomes (Use CAS Report 096)			
Revocation			
Voluntary Surrender			
Suspension			
Probation with Suspension			
Probation			
Probationary License Issued			
Other			
PROBATION			
New Probationers			
Probations Successfully Completed			
Probationers (close of FY)			
Petitions to Revoke Probation			
Probations Revoked			
Probations Modified			
Probations Extended			
Probationers Subject to Drug Testing			
Drug Tests Ordered			
Positive Drug Tests			
Petition for Reinstatement Granted			
DIVERSION			
New Participants			
Successful Completions			
Participants (close of FY)			
Terminations			
Terminations for Public Threat			
Drug Tests Ordered			
Positive Drug Tests			

Table 9c. Enforcement Statistics (continued)			
	FY 2009/10	FY 2010/11	FY 2011/12
INVESTIGATION			
All Investigations (Use CAS Report EM 10)			
First Assigned			
Closed			
Average days to close	-		
Pending (close of FY)			
Desk Investigations (Use CAS Report EM 10)			
Closed	-		
Average days to close	-		
Pending (close of FY)	-		
Non-Sworn Investigation (Use CAS Report EM 10)			
Closed	-		
Average days to close	-		
Pending (close of FY)	-		
Sworn Investigation			
Closed (Use CAS Report EM 10)			
Average days to close	-		
Pending (close of FY)			
COMPLIANCE ACTION (Use CAS Report 096)			
ISO & TRO Issued			
PC 23 Orders Requested			
Other Suspension Orders			
Public Letter of Reprimand			
Cease & Desist/Warning			
Referred for Diversion			
Compel Examination			
CITATION AND FINE (Use CAS Report EM 10 and 095)			
Citations Issued			
Average Days to Complete	-		
Amount of Fines Assessed			
Reduced, Withdrawn, Dismissed			
Amount Collected			
CRIMINAL ACTION			
Referred for Criminal Prosecution			

Table 10. Enforcement Aging						
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year						
2 Years						
3 Years						
4 Years						
Over 4 Years						
Total Cases Closed						
Investigations (Average %)						
Closed Within:						
90 Days						
180 Days						
1 Year						
2 Years						
3 Years						
Over 3 Years						
Total Cases Closed						

32. What do overall statistics show as to increases or decreases in disciplinary action since last review.
33. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.
34. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report actions taken against a licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?
35. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases were lost due to statute of limitations? If not, what is the board's policy on statute of limitations?
36. Describe the board's efforts to address unlicensed activity and the underground economy.

Cite and Fine

37. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and last time regulations were updated. Has the board increased its maximum fines to the \$5,000 statutory limit?
38. How is cite and fine used? What types of violations are the basis for citation and fine?
39. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals in the last 4 fiscal years?
40. What are the 5 most common violations for which citations are issued?
41. What is average fine pre and post appeal?
42. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

Cost Recovery and Restitution

43. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.
44. How many and how much is ordered for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.
45. Are there cases for which the board does not seek cost recovery? Why?
46. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.
47. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

Table 11. Cost Recovery				
	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
Total Enforcement Expenditures				
Potential Cases for Recovery *				
Cases Recovery Ordered				
Amount of Cost Recovery Ordered				
Amount Collected				
* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.				

Table 12. Restitution				
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Amount Ordered				
Amount Collected				

Section 6

Public Information Policies

48. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?
49. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings?
50. Does the board establish an annual meeting calendar, and post it on the board's web site?
51. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?
52. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

53. What methods are used by the board to provide consumer outreach and education?

Section 7 Online Practice Issues

54. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate Internet business practices or believe there is a need to do so?

Section 8 Workforce Development and Job Creation

55. What actions has the board taken in terms of workforce development?

56. Describe any assessment the board has conducted on the impact of licensing delays.

57. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

58. Provide any workforce development data collected by the board, such as:

- a. Workforce shortages
- b. Successful training programs.

Section 9 Current Issues

59. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

60. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

61. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

Section 10 Board Action and Response to Prior Sunset Issues

Include the following:

1. Background information concerning the issue as it pertains to the board.
2. Short discussion of recommendations made by the Committee/Joint Committee during prior sunset review.

3. What action the board took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

Section 11 New Issues

This is the opportunity for the board to inform the Committee of solutions to issues identified by the board and by the Committee. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., legislative changes, policy direction, budget changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.
2. New issues that are identified by the board in this report.
3. New issues not previously discussed in this report.
4. New issues raised by the Committee.

Section 12 Attachments

Please provide the following attachments:

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).
- C. Major studies, if any (cf., Section 1, Question 4).
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

Section 13

Board Specific Issues

Diversion

Discuss the board's diversion program, the extent to which it is used, the outcomes of those who participate, the overall costs of the program compared with its successes

Diversion Evaluation Committees (DEC) (for BRN, Dental, Osteo and VET only)

1. DCA contracts with a vendor to perform probation monitoring services for licensees with substance abuse problems, why does the board use DEC? What is the value of a DEC?
2. What is the membership/makeup composition?
3. Did the board have any difficulties with scheduling DEC meetings? If so, describe why and how the difficulties were addressed.
4. Does the DEC comply with the Open Meetings Act?
5. How many meetings held in each of the last three fiscal years?
6. Who appoints the members?
7. How many cases (average) at each meeting?
8. How many pending? Are there backlogs?
9. What is the cost per meeting? Annual cost?
10. How is DEC used? What types of cases are seen by the DEC?
11. How many DEC recommendations have been rejected by the board in the past four fiscal years (broken down by year)?

Disciplinary Review Committees (Board of Barbering and Cosmetology and BSIS only)

1. What is a DRC and how is a DRC used? What types of cases are seen by the DRCs?
2. What is the membership/makeup composition?
3. Does the DRC comply with the Open Meetings Act?
4. How many meeting held in last three fiscal years?
5. Did the board have any difficulties with scheduling DRC meetings? If so, describe why and how the difficulties were addressed.
6. Who appoints the members?
7. How many cases (average) at each meeting?
8. How many pending? Are there backlogs?
9. What is the cost per meeting? Annual cost?
10. Provide statistics on DRC actions/outcomes.

SB 1444 Assembly Bill - Status CURRENT BILL STATUS

MEASURE : S.B. No. 1444
AUTHOR(S) : Anderson.
TOPIC : Assistive devices: warranty: regulations.
HOUSE LOCATION : SEN

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 03/28/2012
LAST HIST. ACTION : Set for hearing April 9.
COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
HEARING DATE : 04/16/2012

TITLE : An act to add Section 2530.7 to the Business and
 Professions Code, relating to assistive devices.

Introduced by Senator Anderson

February 24, 2012

An act to add Section 2530.7 to the Business and Professions Code, relating to assistive devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 1444, as introduced, Anderson. Assistive devices: warranty: regulations.

Existing law creates the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in the Department of Consumer Affairs with various powers and duties. Existing law requires all new and used assistive devices sold at retail, with specified exceptions, to be accompanied by a written warranty.

This bill would authorize the board to adopt regulations to carry out the purposes and objectives of these warranty requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2530.7 is added to the Business and
- 2 Professions Code, to read:
- 3 2530.7. The board may adopt regulations to carry out the
- 4 purposes and objectives of subdivisions (a), (b), and (c) of Section
- 5 1793.02 of the Civil Code relating to warranty requirements for
- 6 new and used assistive devices governed by those provisions.

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April 5, 2012

Senator Curren Price, Chair
Senate Business, Professions, and Economic Development Committee
State Capitol, Rm. 2053
Sacramento, CA 95814

RE: Senate Bill 1444- Assistive Devices: Warranty

Dear Senator Price:

The California Speech-Language Pathology and Audiology Board and Hearing Aid Dispensers Board (SLPAHADB) strongly supports Senate Bill 1444, a measure that would authorize the Board to adopt regulations regarding the refund and warranty provisions for hearing aids. Existing law, Civil Code Section 1793.02, which is a part of the California Song Beverly Consumer Warranty Act (SBCWA), establishes warranty provisions for “assistive devices” of which hearing aid devices are included. However, the provisions are somewhat nebulous and difficult to enforce. The Board is certain that promulgating more specific regulations to address the return and refund provisions for the purchase of hearing aids will more effectively protect consumers from financial hardship by enhancing the Board’s authority to take action against hearing aid dispensers who employ inappropriate or possibly unethical business practices.

In researching complaint activity surrounding return and refund issues related to the sale of hearing aids, the Board has found that roughly 40-50% of complaints received by the Board each year are related to issues surrounding disputes over the refund of monies paid for hearing aids. Historically, these complaints (mostly levied by seniors) have plagued the Board (as well as the former “Bureau”) as determining the facts in such cases is extremely difficult. The SBCWA provisions are vague and, therefore, open to interpretation which makes gathering substantiating evidence and interviewing witnesses difficult. Often the complainants (seniors) do not have documentation to submit to the Board and have spent large sums of money, (most hearing aids cost \$2,000 or more, per aid). Procuring evidentiary documentation from the hearing aid dispenser is at time impossible since the provisions of the SBCWA do not specify that the purchase agreement must contain all pertinent dates and information, such as, dates of repair or adjustment and dates when the hearing aid was not in the possession of the purchaser, to name a few. This information is vital in order for the Board to adequately review the facts of the case and determine whether a violation of law occurred. Since it has proven difficult to substantiate the allegations of fraud or unprofessional conduct, many complainants are forced to pursue resolution through Small Claims Court or a private legal action. Seeking private legal recourse can be daunting for anyone, especially seniors.

It is the Board’s primary mission and mandate to protect consumers from licensee²s who fail to uphold the law and attempt to defraud or scam consumers. The current provisions of the SBCWA

provide a loophole for hearing aid dispensers to do just that, as the provisions are ambiguous and fail to adequately protect our consumers, in this case, the hearing impaired elderly.

The Board believes that SB 1444 is a responsible measure in terms of enforcing provisions that are intended to protect the public and provide clear direction to licensed hearing aid dispensers.

Thank you for considering this measure on behalf of hearing impaired consumers of this state.

Sincerely,

Lisa O'Connor

Lisa O'Connor, M.A.

Chair, Speech-Language Pathology and Audiology Board

Alison Grimes

Alison Grimes, AuD

Vice Chair, Speech-Language Pathology and Audiology Board

cc: Members of the Senate Business, Professions, and Economic Development
Committee
DCA Legislative and Regulatory Review Unit
Tricia Hunter, Hearing Health Care Providers of CA
Barry Brokaw, Legislative Advocate California Academy of Audiology

AB 1454 Assembly Bill - Status CURRENT BILL STATUS

MEASURE : A.B. No. 1454
AUTHOR(S) : Solorio.
TOPIC : Workers' compensation: audiologists.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 03/28/2012
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on
APPR.

(Ayes 12. Noes 0.) (March 28). Re-referred to Com. on
APPR.

COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to amend Sections 139.2 and 3209.3 of the Labor
Code, relating to workers' compensation.

ASSEMBLY BILL

No. 1454

Introduced by Assembly Member Solorio

January 9, 2012

An act to amend Sections 139.2 and 3209.3 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1454, as introduced, Solorio. Workers' compensation: audiologists.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires the Administrative Director of the Division of Workers' Compensation to appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues.

This bill would also include doctors of audiology who meet specified requirements among those medical professionals who may be appointed by the administrative director as a qualified medical evaluator.

Existing law, for purposes of workers' compensation, defines "physician" to include physicians and surgeons holding specified degrees, psychologists, acupuncturists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice, as defined by state law.

This bill would also include licensed audiologists, as specified, within that definition of physician.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 139.2 of the Labor Code is amended to
2 read:

3 139.2. (a) The administrative director shall appoint qualified
4 medical evaluators in each of the respective specialties as required
5 for the evaluation of medical-legal issues. The appointments shall
6 be for two-year terms.

7 (b) The administrative director shall appoint or reappoint as a
8 qualified medical evaluator a physician, as defined in Section
9 3209.3, who is licensed to practice in this state and who
10 demonstrates that he or she meets the requirements in paragraphs
11 (1), (2), ~~(6)~~, (7), and ~~(7)~~, (8), and, if the physician is a medical
12 doctor, doctor of osteopathy, doctor of chiropractic, *a psychologist*,
13 or a ~~psychologist~~, *doctor of audiology*, that he or she also meets
14 the applicable requirements in paragraph (3), (4), (5), or ~~(5)~~. (6).

15 (1) Prior to his or her appointment as a qualified medical
16 evaluator, passes an examination written and administered by the
17 administrative director for the purpose of demonstrating
18 competence in evaluating medical-legal issues in the workers'
19 compensation system. Physicians shall not be required to pass an
20 additional examination as a condition of reappointment. A
21 physician seeking appointment as a qualified medical evaluator
22 on or after January 1, 2001, shall also complete prior to
23 appointment, a course on disability evaluation report writing
24 approved by the administrative director. The administrative director
25 shall specify the curriculum to be covered by disability evaluation
26 report writing courses, which shall include, but is not limited to,
27 12 or more hours of instruction.

28 (2) Devotes at least one-third of total practice time to providing
29 direct medical treatment, or has served as an agreed medical
30 evaluator on eight or more occasions in the 12 months prior to
31 applying to be appointed as a qualified medical evaluator.

32 (3) Is a medical doctor or doctor of osteopathy and meets one
33 of the following requirements:

34 (A) Is board certified in a specialty by a board recognized by
35 the administrative director and either the Medical Board of
36 California or the Osteopathic Medical Board of California.

1 (B) Has successfully completed a residency training program
2 accredited by the American College of Graduate Medical Education
3 or the osteopathic equivalent.

4 (C) Was an active qualified medical evaluator on June 30, 2000.

5 (D) Has qualifications that the administrative director and either
6 the Medical Board of California or the Osteopathic Medical Board
7 of California, as appropriate, both deem to be equivalent to board
8 certification in a specialty.

9 (4) Is a doctor of chiropractic and meets either of the following
10 requirements:

11 (A) Has completed a chiropractic postgraduate specialty program
12 of a minimum of 300 hours taught by a school or college
13 recognized by the administrative director, the *State* Board of
14 Chiropractic Examiners and the Council on Chiropractic Education.

15 (B) Has been certified in California workers' compensation
16 evaluation by a provider recognized by the administrative director.
17 The certification program shall include instruction on disability
18 evaluation report writing that meets the standards set forth in
19 paragraph (1).

20 (5) Is a psychologist and meets one of the following
21 requirements:

22 (A) Is board certified in clinical psychology by a board
23 recognized by the administrative director.

24 (B) Holds a doctoral degree in psychology, or a doctoral degree
25 deemed equivalent for licensure by the Board of Psychology
26 pursuant to Section 2914 of the Business and Professions Code,
27 from a university or professional school recognized by the
28 administrative director and has not less than five years'
29 postdoctoral experience in the diagnosis and treatment of emotional
30 and mental disorders.

31 (C) Has not less than five years' postdoctoral experience in the
32 diagnosis and treatment of emotional and mental disorders, and
33 has served as an agreed medical evaluator on eight or more
34 occasions prior to January 1, 1990.

35 (6) *Is a practicing clinical audiologist licensed by the State of*
36 *California who meets all of the following requirements:*

37 (A) *Holds a doctorate of audiology (Au.D.) or a Ph.D., or both,*
38 *in an audiology-related profession and is licensed by the*
39 *Speech-Language Pathology and Audiology and Hearing Aid*
40 *Dispensers Board pursuant to Article 3 (commencing with Section*

1 2532) of Chapter 5.3 of Division 2 of the Business and Professions
2 Code, from a university training program recognized by the board.

3 (B) Has not less than five years' postdoctoral experience in the
4 practice of audiology.

5 (C) Prior to his or her appointment as a qualified medical
6 evaluator, passed the same examination described in paragraph
7 (1) for the purpose of demonstrating competence in evaluating
8 medical-legal issues in the workers' compensation system.

9 (D) When acting as a qualified medical evaluator, bases the
10 diagnosis portion of the qualified medical evaluator report on the
11 diagnosis made by a physician who is licensed in the state to
12 practice medicine.

13 ~~(6)~~

14 (7) Does not have a conflict of interest as determined under the
15 regulations adopted by the administrative director pursuant to
16 subdivision (o).

17 ~~(7)~~

18 (8) Meets any additional medical or professional standards
19 adopted pursuant to paragraph (6) of subdivision (j).

20 (c) The administrative director shall adopt standards for
21 appointment of physicians who are retired or who hold teaching
22 positions who are exceptionally well qualified to serve as a
23 qualified medical evaluator even though they do not otherwise
24 qualify under paragraph (2) of subdivision (b). In no event shall a
25 physician whose full-time practice is limited to the forensic
26 evaluation of disability be appointed as a qualified medical
27 evaluator under this subdivision.

28 (d) The qualified medical evaluator, upon request, shall be
29 reappointed if he or she meets the qualifications of subdivision (b)
30 and meets all of the following criteria:

31 (1) Is in compliance with all applicable regulations and
32 evaluation guidelines adopted by the administrative director.

33 (2) Has not had more than five of his or her evaluations that
34 were considered by a workers' compensation administrative law
35 judge at a contested hearing rejected by the workers' compensation
36 administrative law judge or the appeals board pursuant to this
37 section during the most recent two-year period during which the
38 physician served as a qualified medical evaluator. If the workers'
39 compensation administrative law judge or the appeals board rejects
40 the qualified medical evaluator's report on the basis that it fails to

1 meet the minimum standards for those reports established by the
2 administrative director or the appeals board, the workers'
3 compensation administrative law judge or the appeals board, as
4 the case may be, shall make a specific finding to that effect, and
5 shall give notice to the medical evaluator and to the administrative
6 director. Any rejection shall not be counted as one of the five
7 qualifying rejections until the specific finding has become final
8 and time for appeal has expired.

9 (3) Has completed within the previous 24 months at least 12
10 hours of continuing education in impairment evaluation or workers'
11 compensation-related medical dispute evaluation approved by the
12 administrative director.

13 (4) Has not been terminated, suspended, placed on probation,
14 or otherwise disciplined by the administrative director during his
15 or her most recent term as a qualified medical evaluator.

16 If the evaluator does not meet any one of these criteria, the
17 administrative director may in his or her discretion reappoint or
18 deny reappointment according to regulations adopted by the
19 administrative director. ~~In no event may a~~ A physician who does
20 not currently meet the requirements for initial appointment or who
21 has been terminated under subdivision (e) because his or her license
22 has been revoked or terminated by the licensing authority *shall*
23 *not* be reappointed.

24 (e) The administrative director may, in his or her discretion,
25 suspend or terminate a qualified medical evaluator during his or
26 her term of appointment without a hearing as provided under
27 subdivision (k) or (l) whenever either of the following conditions
28 occurs:

29 (1) The evaluator's license to practice in California has been
30 suspended by the relevant licensing authority so as to preclude
31 practice, or has been revoked or terminated by the licensing
32 authority.

33 (2) The evaluator has failed to timely pay the fee required by
34 the administrative director pursuant to subdivision (n).

35 (f) The administrative director shall furnish a physician, upon
36 request, with a written statement of its reasons for termination of,
37 or for denying appointment or reappointment as, a qualified
38 medical evaluator. Upon receipt of a specific response to the
39 statement of reasons, the administrative director shall review his
40 or her decision not to appoint or reappoint the physician or to

1 terminate the physician and shall notify the physician of its final
2 decision within 60 days after receipt of the physician’s response.

3 (g) The administrative director shall establish agreements with
4 qualified medical evaluators to assure the expeditious evaluation
5 of cases assigned to them for comprehensive medical evaluations.

6 (h) (1) When requested by an employee or employer pursuant
7 to Section 4062.1, the medical director appointed pursuant to
8 Section 122 shall assign ~~a three-member panels~~ *panel* of qualified
9 medical evaluators within five working days after receiving a
10 request for a panel. If a panel is not assigned within 15 working
11 days, the employee shall have the right to obtain a medical
12 evaluation from any qualified medical evaluator of his or her
13 choice. The medical director shall use a random selection method
14 for assigning panels of qualified medical evaluators. The medical
15 director shall select evaluators who are specialists of the type
16 requested by the employee. The medical director shall advise the
17 employee that he or she should consult with his or her treating
18 physician prior to deciding which type of specialist to request.

19 (2) The administrative director shall promulgate a form that
20 shall notify the employee of the physicians selected for his or her
21 panel after a request has been made pursuant to Section 4062.1 or
22 4062.2. The form shall include, for each physician on the panel,
23 the physician’s name, address, telephone number, specialty, number
24 of years in practice, and a brief description of his or her education
25 and training, and shall advise the employee that he or she is entitled
26 to receive transportation expenses and temporary disability for
27 each day necessary for the examination. The form shall also state
28 in a clear and conspicuous location and type: “You have the right
29 to consult with an information and assistance officer at no cost to
30 you prior to selecting the doctor to prepare your evaluation, or you
31 may consult with an attorney. If your claim eventually goes to
32 court, the workers’ compensation administrative law judge will
33 consider the evaluation prepared by the doctor you select to decide
34 your claim.”

35 (3) When compiling the list of evaluators from which to select
36 randomly, the medical director shall include all qualified medical
37 evaluators who meet all of the following criteria:

38 (A) He or she does not have a conflict of interest in the case, as
39 defined by regulations adopted pursuant to subdivision (o).

1 (B) He or she is certified by the administrative director to
2 evaluate in an appropriate specialty and at locations within the
3 general geographic area of the employee's residence.

4 (C) He or she has not been suspended or terminated as a
5 qualified medical evaluator for failure to pay the fee required by
6 the administrative director pursuant to subdivision (n) or for any
7 other reason.

8 (4) When the medical director determines that an employee has
9 requested an evaluation by a type of specialist that is appropriate
10 for the employee's injury, but there are not enough qualified
11 medical evaluators of that type within the general geographic area
12 of the employee's residence to establish a three-member panel,
13 the medical director shall include sufficient qualified medical
14 evaluators from other geographic areas and the employer shall pay
15 all necessary travel costs incurred in the event the employee selects
16 an evaluator from another geographic area.

17 (i) The medical director appointed pursuant to Section 122 shall
18 continuously review the quality of comprehensive medical
19 evaluations and reports prepared by agreed and qualified medical
20 evaluators and the timeliness with which evaluation reports are
21 prepared and submitted. The review shall include, but not be
22 limited to, a review of a random sample of reports submitted to
23 the division, and a review of all reports alleged to be inaccurate
24 or incomplete by a party to a case for which the evaluation was
25 prepared. The medical director shall submit to the administrative
26 director an annual report summarizing the results of the continuous
27 review of medical evaluations and reports prepared by agreed and
28 qualified medical evaluators and make recommendations for the
29 improvement of the system of medical evaluations and
30 determinations.

31 (j) After public hearing pursuant to Section 5307.3, the
32 administrative director shall adopt regulations concerning the
33 following issues:

34 (1) (A) Standards governing the timeframes within which
35 medical evaluations shall be prepared and submitted by agreed
36 and qualified medical evaluators. Except as provided in this
37 subdivision, the timeframe for initial medical evaluations to be
38 prepared and submitted shall be no more than 30 days after the
39 evaluator has seen the employee or otherwise commenced the
40 medical evaluation procedure. The administrative director shall

1 develop regulations governing the provision of extensions of the
2 30-day period in both of the following cases:
3 (i) When the evaluator has not received test results or consulting
4 physician’s evaluations in time to meet the 30-day deadline.
5 (ii) To extend the 30-day period by not more than 15 days when
6 the failure to meet the 30-day deadline was for good cause.
7 (B) For purposes of subparagraph (A), “good cause” means any
8 of the following:
9 (i) Medical emergencies of the evaluator or evaluator’s family.
10 (ii) Death in the evaluator’s family.
11 (iii) Natural disasters or other community catastrophes that
12 interrupt the operation of the evaluator’s business.
13 (C) The administrative director shall develop timeframes
14 governing availability of qualified medical evaluators for
15 unrepresented employees under Sections 4061 and 4062. These
16 timeframes shall give the employee the right to the addition of a
17 new evaluator to his or her panel, selected at random, for each
18 evaluator not available to see the employee within a specified
19 period of time, but shall also permit the employee to waive this
20 right for a specified period of time thereafter.
21 (2) Procedures to be followed by all physicians in evaluating
22 the existence and extent of permanent impairment and limitations
23 resulting from an injury in a manner consistent with Section 4660.
24 (3) Procedures governing the determination of any disputed
25 medical treatment issues in a manner consistent with Section
26 5307.27.
27 (4) Procedures to be used in determining the compensability of
28 psychiatric injury. The procedures shall be in accordance with
29 Section 3208.3 and shall require that the diagnosis of a mental
30 disorder be expressed using the terminology and criteria of the
31 American Psychiatric Association’s Diagnostic and Statistical
32 Manual of Mental Disorders, Third Edition-Revised, or the
33 terminology and diagnostic criteria of other psychiatric diagnostic
34 manuals generally approved and accepted nationally by
35 practitioners in the field of psychiatric medicine.
36 (5) Guidelines for the range of time normally required to perform
37 the following:
38 (A) A medical-legal evaluation that has not been defined and
39 valued pursuant to Section 5307.6. The guidelines shall establish
40 minimum times for patient contact in the conduct of the

1 evaluations, and shall be consistent with regulations adopted
2 pursuant to Section 5307.6.

3 (B) Any treatment procedures that have not been defined and
4 valued pursuant to Section 5307.1.

5 (C) Any other evaluation procedure requested by the Insurance
6 Commissioner, or deemed appropriate by the administrative
7 director.

8 (6) Any additional medical or professional standards that a
9 medical evaluator shall meet as a condition of appointment,
10 reappointment, or maintenance in the status of a medical evaluator.

11 (k) Except as provided in this subdivision, the administrative
12 director may, in his or her discretion, suspend or terminate the
13 privilege of a physician to serve as a qualified medical evaluator
14 if the administrative director, after hearing pursuant to subdivision
15 (l), determines, based on substantial evidence, that a qualified
16 medical evaluator:

17 (1) Has violated any material statutory or administrative duty.

18 (2) Has failed to follow the medical procedures or qualifications
19 established pursuant to paragraph (2), (3), (4), or (5) of subdivision
20 (j).

21 (3) Has failed to comply with the timeframe standards
22 established pursuant to subdivision (j).

23 (4) Has failed to meet the requirements of subdivision (b) or
24 (c).

25 (5) Has prepared medical-legal evaluations that fail to meet the
26 minimum standards for those reports established by the
27 administrative director or the appeals board.

28 (6) Has made material misrepresentations or false statements
29 in an application for appointment or reappointment as a qualified
30 medical evaluator.

31 No hearing shall be required prior to the suspension or
32 termination of a physician's privilege to serve as a qualified
33 medical evaluator when the physician has done either of the
34 following:

35 (A) Failed to timely pay the fee required pursuant to subdivision
36 (n).

37 (B) Had his or her license to practice in California suspended
38 by the relevant licensing authority so as to preclude practice, or
39 had the license revoked or terminated by the licensing authority.

1 (l) The administrative director shall cite the qualified medical
2 evaluator for a violation listed in subdivision (k) and shall set a
3 hearing on the alleged violation within 30 days of service of the
4 citation on the qualified medical evaluator. In addition to the
5 authority to terminate or suspend the qualified medical evaluator
6 upon finding a violation listed in subdivision (k), the administrative
7 director may, in his or her discretion, place a qualified medical
8 evaluator on probation subject to appropriate conditions, including
9 ordering continuing education or training. The administrative
10 director shall report to the appropriate licensing board the name
11 of any qualified medical evaluator who is disciplined pursuant to
12 this subdivision.

13 (m) The administrative director shall terminate from the list of
14 medical evaluators any physician where licensure has been
15 terminated by the relevant licensing board, or who has been
16 convicted of a misdemeanor or felony related to the conduct of his
17 or her medical practice, or of a crime of moral turpitude. The
18 administrative director shall suspend or terminate as a medical
19 evaluator any physician who has been suspended or placed on
20 probation by the relevant licensing board. If a physician is
21 suspended or terminated as a qualified medical evaluator under
22 this subdivision, a report prepared by the physician that is not
23 complete, signed, and furnished to one or more of the parties prior
24 to the date of conviction or action of the licensing board, whichever
25 is earlier, shall not be admissible in any proceeding before the
26 appeals board nor shall there be any liability for payment for the
27 report and any expense incurred by the physician in connection
28 with the report.

29 (n) Each qualified medical evaluator shall pay a fee, as
30 determined by the administrative director, for appointment or
31 reappointment. These fees shall be based on a sliding scale as
32 established by the administrative director. All revenues from fees
33 paid under this subdivision shall be deposited into the Workers'
34 Compensation Administration Revolving Fund and are available
35 for expenditure upon appropriation by the Legislature, and shall
36 not be used by any other department or agency or for any purpose
37 other than administration of the programs the Division of Workers'
38 Compensation related to the provision of medical treatment to
39 injured employees.

1 (o) An evaluator may not request or accept any compensation
2 or other thing of value from any source that does or could create
3 a conflict with his or her duties as an evaluator under this code.
4 The administrative director, after consultation with the Commission
5 on Health and Safety and Workers' Compensation, shall adopt
6 regulations to implement this subdivision.

7 SEC. 2. Section 3209.3 of the Labor Code is amended to read:

8 3209.3. (a) "Physician" includes physicians and surgeons
9 holding an M.D. or D.O. degree, psychologists, acupuncturists,
10 optometrists, dentists, podiatrists, *audiologists*, and chiropractic
11 practitioners licensed by California state law and within the scope
12 of their practice as defined by California state law.

13 (b) (1) "Psychologist" means a licensed psychologist with a
14 doctoral degree in psychology, or a doctoral degree deemed
15 equivalent for licensure by the Board of Psychology pursuant to
16 Section 2914 of the Business and Professions Code, and who either
17 has at least two years of clinical experience in a recognized health
18 setting or has met the standards of the National Register of the
19 Health Service Providers in Psychology.

20 (e)

21 (2) When treatment or evaluation for an injury is provided by
22 a psychologist, provision shall be made for appropriate medical
23 collaboration when requested by the employer or the insurer.

24 (d)

25 (c) (1) "Acupuncturist" means a person who holds an
26 acupuncturist's certificate issued pursuant to Chapter 12
27 (commencing with Section 4925) of Division 2 of the Business
28 and Professions Code.

29 (e)

30 (2) Nothing in this section shall be construed to authorize
31 acupuncturists to determine disability for the purposes of Article
32 3 (commencing with Section 4650) of Chapter 2 of Part 2, or under
33 Section 2708 of the Unemployment Insurance Code.

34 (d) (1) "*Audiologist*" means a person licensed as an *audiologist*
35 pursuant to Article 3 (commencing with Section 2532) of Chapter
36 5.3 of Division 2 of the Business and Professions Code and holds
37 a doctorate of audiology (Au.D.) or a Ph.D. degree in an
38 *audiology-related profession*.

- 1 (2) *The inclusion of audiologists in this section shall not imply*
- 2 *any right or entitle any audiologist to represent, advertise, or hold*
- 3 *himself or herself out as a physician.*

O



Speech-Language Pathology and Audiology
and Hearing Aid Dispensers Board

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

*UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND
DISCIPLINARY GUIDELINES*

July 16, 2004 _____, 2012

~~Speech-Language Pathology and Audiology Board~~
DISCIPLINARY GUIDELINES
TABLE OF CONTENTS

- **Introduction** Page 2
- **1399.131 and 1399.155 Uniform Standards Related to Substance Abuse and Disciplinary Guidelines** Page 23
- **Uniform Standards for Those Licensees Whose License Is On Probation Due to a Substance Abuse Problem** Page 4
- Clinical Diagnostic Evaluations Page 4
- Clinical Diagnostic Evaluation Report Page 4
- Worksite Monitor Requirements Page 5
- Major and Minor Violations Page 6
- Drug Testing Standards Page 7
- **Disciplinary Guidelines** Page 2-9
- Factors to Consider when Rendering Discipline Page 9
- Situations Where Revocation Shall Be Imposed Page 9
- ~~Recommended Language for Issuance and Placement of a License on Probation for Initial Licensure and Reinstatement of License~~
Model Introductory Language for Probation Orders Page 9
- Probationary Considerations Page 11
- List of Probation Terms and Conditions Page 11
- Standard Terms and Conditions of Probation (1-15) Page 211
- Additional Terms and Conditions of Probation (16-28) Page 517
- Penalties for Disciplinary Actions
Speech-Language Pathologists, Audiologists, Dispensing Audiologists & Speech-Language Pathology Assistants) Page 1125

INTRODUCTION

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is a consumer protection agency with the primary mission of protecting consumers of speech-language pathology, audiology, and hearing aid dispenser services from potentially harmful licensees. In keeping with its obligation to protect the consumer, the Board has adopted the following Disciplinary Guidelines for disciplinary orders, terms and conditions of probation for violations of the laws governing speech-language pathology, audiology and hearing aid dispensing as well as Uniform Standards Related to Substance Abuse.

The Board carefully considers all facts and circumstances associated with each case in its efforts to protect consumers. Subsequently, the Administrative Law Judge ("ALJ") shall provide in all proposed decisions a detailed basis of his or her decision in the "Findings of Fact" particularly when there is a deviation from the Guidelines. The deviation shall be clearly outlined in the decision to enable the Board to understand the reasons for the deviation and evaluate the suitability of the decision. However, an ALJ is prohibited from deviating from the Uniform Standards Related to Substance Abuse.

If at the time of hearing the ALJ finds that the Respondent, for any reason, is not capable of safe practice, the ALJ shall order outright revocation of the license. This is particularly important in cases of patient sexual abuse or bodily harm. Suspension of a license may also be appropriate where the public may be better protected if the practice of the licensee is suspended in order to correct deficiencies in skills, education or rehabilitation.

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

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

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

Section 1399.131 of Division 13.3 and Section 1399.155 of Division 13.4 of Title 16, Article 6 entitled "Disciplinary Guidelines," of the California Code of Regulations is amended to read:

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

1399.131 & 1399.155. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall consider the disciplinary guidelines entitled comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Revised January 2012, (hereinafter "Guidelines") July 16, 2004," that are hereby incorporated by reference. The Disciplinary Guidelines apply to all matters; the Uniform Standards describe the orders that shall be imposed upon a substance abusing licensee.

Deviation from these guidelines and orders, including the standard terms and conditions of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; and evidentiary problems. Neither the board nor an administrative law judge may impose any terms or conditions of probation that are less restrictive than the Uniform Standards Related to Substance Abuse. If a licensee has not been identified as a substance abusing licensee, a clinical evaluation may be ordered and the remaining provisions of the Uniform Standards may be made contingent upon a clinical diagnostic evaluator's report that the licensee has a substance abuse problem.

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

As used in this section, the term "sex offense" shall mean any of the following:

(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(b) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a)-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

(c) Any attempt to commit any of the offenses specified in this section.

(d) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.”

Note: Authority cited: Sections 2531.95, Business and Professions Code; and Sections 11400.20, Government Code. Reference: Sections 729, 2533 and 2533.1, Business and Professions Code; and Sections 11400.20, and ~~11425.50(e)~~ and 11500, Government Code; and Section 44010, Education Code.

*Italicized text reflects proposed regulatory language that is part of another rulemaking file.

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

Clinical Diagnostic Evaluations:

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

Clinical Diagnostic Evaluation Report:

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

The evaluator shall not have a financial, personal or business relationship with the licensee or other relationship that could reasonably be expected to compromise the ability of the evaluator to render an impartial and unbiased report, within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

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

a determination.

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

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

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

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

Worksite Monitor Requirements:

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

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

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

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

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

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

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

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

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

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

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

If a licensee tests positive for a banned substance, the Board shall order the licensee to cease practice. The Board shall also immediately notify the licensee's employer, supervisor, and or contractor that the licensee has been ordered to cease practice and he or she may not resume working until the cease practice order is lifted.

Major and Minor Violations:

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

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation terms and conditions;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

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

1. Licensee will be ordered to cease practice.

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

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

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

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

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

Drug Testing Standards:

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

1. A Board may direct a licensee to be drug tested at any time. Additionally, licensees shall be randomly drug tested at any time as directed by the Board. The following schedule of random drug testing frequency shall be imposed, unless any of the exceptions set forth below exists and support a less infrequent testing schedule:
 - a) The first year of probation a licensee shall be subject to a minimum of fifty-two (52) to one-hundred and four (104) tests per year.
 - b) Following the first year of probation and through the fifth year, a licensee shall be subject to a minimum of thirty-six (36) to one-hundred and four (104) tests per year.
 - c) Once the licensee has completed five years of probation with no positive drug tests, administration of one (1) test per month may be imposed.
 - d) If the Board finds that a major violation, as defined in the Uniform Standards, has occurred, the licensee shall be subject to the drug testing frequency as identified in subsection (a) above.

2. The Board may consider the following exceptions to the testing frequency when imposing terms from drug testing:
 - a) Evidence the licensee has participated in a treatment or monitoring program requiring random testing, prior to being subject to the discipline by the Board, the Board may give consideration to that testing in altering the testing frequency schedule so that it is equivalent to this standard.
 - b) A licensee whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass the testing frequency noted in the first year of probation.
 - c) The Board may reduce the testing frequency to a minimum of twelve (12) times per year for any person who is not practicing or working in any health care field.
 - d) The Board may postpone the testing for any licensee whose probation is placed on tolling status. The licensee shall notify the Board upon the licensee's return to practice and shall be subject to testing as provided in this standard. If the licensee returns to practice and has not previously completed the drug testing frequency standards as identified above, the licensee shall be subject to completing a full year of drug testing standards equivalent to the first year standards for drug testing, otherwise the drug testing standards for the second year shall apply.
 - d) If no current substance use disorder diagnosis is made, the Board may adopt a lesser period of monitoring and drug testing, but not less than twenty-four times per year.
3. Drug testing may be required on any day, including weekends and holidays.
4. Licensees shall be required to make daily contact to determine if drug testing is required.
5. Licensees shall be drug tested on the date of notification as directed by the board.
6. Collection of specimens shall be observed.
7. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

DISCIPLINARY GUIDELINES

Guidelines to Consider When Rendering Discipline

In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offenses, or crime(s) under consideration.
2. Actual or potential harm to the public.
3. Actual or potential harm to any patient.
4. Prior disciplinary record.
5. Number and/or variety of current violations.
6. Mitigation evidence.
7. Rehabilitation evidence.
8. In case of a criminal conviction, compliance with conditions of sentence or court-ordered probation.
9. Overall criminal record.
10. Time passed since the act(s) or offense(s) occurred.
11. If applicable, evidence of expungement proceedings pursuant to Penal Code Section 1203.4.

Situations Where Revocation Shall Be Imposed

In addition to violation of the laws governing speech-language pathology, audiology and hearing aid dispensing, there are other circumstances that necessitate outright revocation as the recommended penalty.

1. Failure to file a notice of defense or to appear at a disciplinary hearing, where the Board has requested revocation.
2. Violation of the terms or conditions of a Respondent's probation order.
3. Substantiated evidence or convictions of physical or sexual abuse offenses.
4. Second offenses, unless the Respondent can demonstrate that he or she has been fully rehabilitated.

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

Model Introductory Language for Probation Orders

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

Suggested language for applicants who are placed on probation:

When a stipulated settlement or proposed decision contains probationary terms and conditions, the following language shall be included:

- **Licensees:** Speech-Language Pathologist (SLP), Audiologist (AU), Dispensing Audiologist (DAU), Speech-Language Pathology Assistant (SLPA), Hearing Aid Dispenser (HAD) license no. _____ issued to Respondent _____ is hereby revoked; however, the revocation is stayed and Respondent's license is placed on probation for _____ years on the following terms and conditions.
- **Applicants:** "The application of respondent _____ for licensure is hereby granted. Upon successful completion of all licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions.:"

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

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

Suggested language for reinstatement of licensure with conditions of probation:

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

- **Reinstatements:** The petition of _____ for reinstatement of the SLP, AU, DAU, SLPA, HAD license is hereby GRANTED, as follows.

SLP, AU, DAU, SLPA, HAD license number _____ is reinstated. The license will be immediately revoked; however, the revocation is stayed for _____ years on the following terms and conditions:

In cases where a petitioner for reinstatement has not practiced in the State of California for an extended amount of time, he or she must retake the licensing exam before being reinstated. This information must be provided to the Administrative Law Judge so that the following term and condition can be included in the purposed decision: “Upon successful completion of the licensure examination, a license shall be issued to Respondent.”

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation term and condition requiring payment of original cost recovery on a payment plan shall be included in the decision.

Probationary Considerations

As part of the Board’s mission to protect the consumer, any disciplinary order in which probation is imposed should include terms and conditions that ensure consumer protection.

For purposes of implementation of these terms and conditions of probation, any reference to the Board also means staff working for the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Probationary Term

The Board generally recommends a minimum probation term of 3 years. The term may be increased depending upon the severity of the violation(s).

Probationary Conditions

Conditions of probation are divided into two categories:

1. **Standard** conditions that are included in all probation orders; and
2. **Additional** conditions which are applicable to the nature of the violation(s).

List of Probation Terms and Conditions

Standard Probation Terms and Conditions

Model introductory language and terms and conditions 1-15 are required in all probation orders:

1) Severability Clause

9) Educational Course

2) Obey all Laws

10) Consumer Restitution

- | | |
|---|--|
| <u>3) Comply with Probation Program</u> | <u>11) Recovery of Costs</u> |
| <u>4) Changes of Name and Address</u> | <u>12) Function as a Licensee</u> |
| <u>5) Submit Quarterly Written Declarations</u> | <u>13) Voluntary License Surrender</u> |
| <u>6) Employee Notification</u> | <u>14) Violation of Probation</u> |
| <u>7) Interviews with Board Representatives</u> | <u>15) Completion of Probation</u> |
| <u>8) Employment Limitations</u> | |

Additional Probation Terms and Conditions

In addition to the standard terms and conditions (1-15), additional terms and conditions (16-28), are required (as applicable) if the offense involves one of the following: sexual misconduct, alcohol/drug abuse, mental/physical disabilities, fraudulent conduct, or lack of knowledge or skills. These additional terms and conditions should be included if relevant to the violation.

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|---|--|
| <u>16) Submit to Examination by Physician</u> | <u>24) Take and Pass Licensure Examination</u> |
| <u>17) Psychological Evaluation</u> | <u>25) Supervised Practice</u> |
| <u>18) Psychotherapy</u> | <u>26) Worksite Monitor</u> |
| <u>19) Clinical Diagnostic Evaluation</u> | <u>27) Restrictions on Licensed Practice</u> |
| <u>20) Attend Chemical Dependency Support
and Recovery Groups</u> | <u>28) Actual Suspension of License</u> |
| <u>21) Abstain from Controlled Substances</u> | |
| <u>22) Abstain from the Use of Alcohol</u> | |
| <u>23) Submit Biological Fluid Samples</u> | |

STANDARD TERMS AND CONDITIONS OF PROBATION (1-15)

1. SEVERABILITY CLAUSE

Each term and condition of probation is a separate and distinct term and condition. If any term or condition of this Decision and Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all other applications thereof, shall not be affected. Each term and condition of this Decision and Order shall separately be valid and enforceable to the fullest extent permitted by law.

Rationale: The severability clause is required for all decisions and orders and stipulated agreements where there are terms and conditions of probation, to avoid the potential for all

probation terms and conditions being invalidated upon a successful appeal.

42. OBEY ALL LAWS:

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

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

Rationale: If there has been a violation of any law or regulation that is substantially related to the qualifications, functions, or duties of an SLP, AU, DAU, HAD and/or SLPA, this would constitute a violation of Respondent's probation and allow the Board to revoke probation and impose the stayed disciplinary order.

23. COMPLY WITH PROBATION PROGRAM

Respondent shall fully comply with the Board's probation program, established by the Board and shall cooperate with the representatives of the Board. and shall, upon notice, report to the Board's staff. Respondent shall contact enforcement staff regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with victims or complainants associated with the case or persons serving the Board as expert consultants.

Rationale: Respondent must understand and comply with the probation terms to ensure consumer protection is upheld. Respondent shall be prohibited from making contact with any persons involved in the complaint, with the exception of the Board or its legal representatives, to protect the victims, complainants and witnesses from harassment by the Respondent

43. CHANGES OF NAME AND ADDRESS NOTIFICATION

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

Rationale: This allows the Board to be informed of Respondent's current name, address of record, employment information, including his or her business address, phone number, and employer (if applicable) in the event the Board needs to locate the Respondent or communicate with his or her employer.

4. ~~OUT-OF-STATE RESIDENCY~~

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

~~Respondent shall notify the Board immediately upon return to California.~~

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

5. SUBMIT QUARTERLY WRITTEN DECLARATIONS

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

Rationale: By requiring Respondent declare under penalty of perjury that all statements made to the Board are true and correct, the Board may hold the Respondent legally accountable for submitting false statements to the Board. Receiving quarterly reports, enables the Board to track the Respondent's compliance on a frequent basis, and offers a process for review in determining whether or not his or her license should be restored at the completion of his or her probation.

6. EMPLOYEEER NOTIFICATION OF PROBATION TERMS AND RESTRICTIONS

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

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

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

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

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

Rationale: Any license restriction, including probation is a matter of public record. The public interest is best served when employers have knowledge of a licensee's conduct and need for rehabilitation so that employers may make informed choices to protect their consumers.

7. INTERVIEWS WITH BOARD REPRESENTATIVES

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice. ~~An initial probation visit will be~~

~~required within sixty (60) days of the effective date of the Decision. The purpose of this initial interview is to introduce Respondent to the Board's representatives and to familiarize Respondent with specific probation conditions and requirements. Additional meetings may be scheduled as needed.~~

Rationale: This allows the Board to schedule in-person interviews to monitor Respondent's compliance with the probation order to ensure public protection.

8. EMPLOYMENT LIMITATIONS

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

Rationale: A licensee whose has had his or her license disciplined and is currently serving probation should not be allowed to provide instruction to speech-language pathology or audiology students.

9. EDUCATIONAL COURSE

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

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

Rationale: In those instances where a licensee has demonstrated negligence or incompetence, or has been found to have performed work or attempted treatment beyond the scope of his or her training or experience, the Board will impose a plan of education. The plan shall specify the areas and hours of education required, and may also dictate the institution(s) where the education will be received. Such educational coursework is usually required prior to allowing the licensee to return to the identified deficient area of practice, and requires prior approval by the Board. Continuing education courses used for renewal of licensure will not fulfill the remedial education requirement. The educational plan is for licensees who have demonstrated deficiencies in skill but do not constitute a present danger to patients in other areas of practice.

10. CONSUMER RESTITUTION FOR HEARING AID WARRANTY ISSUES

For hearing aid dispensers and dispensing audiologists, respondent shall make restitution to consumer(s) named in the decision in the amount of the hearing aid refund specified within one (1) year of the effective date of the decision.

Rationale: Where there has been failure by a hearing aid dispenser or dispensing audiologist to adhere to warranty requirements regarding the return of a hearing aid, restitution may be warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the consumer or any other applicable entity. Restitution may be made within a specific time frame or on a payment schedule. Restitution should cover those amounts that are a direct result

of the actions of Respondent.

11. RECOVERY OF COSTS

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

Respondent shall pay to the Board its costs of investigation, probation, and enforcement in the amount of \$ _____. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six (6) months prior to the end of the probationary term.

Rationale: The Board incurs costs associated with the investigation, the disciplinary process, and probation monitoring; this requires the Respondent to reimburse the Board for those expenditures

102. FUNCTION AS A LICENSEE IN A LICENSED CAPACITY

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

Respondent, during the period of probation, shall engage in the practice of [INSERT APPROPRIATE LICENSING CATEGORY, [e.g. speech-language pathology, audiology, or hearing aid dispensing] in California for a minimum of sixteen (16) hours per week or sixty-four (64) hours per calendar month. For the purpose of compliance with this section, "engaged in the practice of [INSERT APPROPRIATE LICENSING CATEGORY]" may include, when approved by the Board, volunteer work in [INSERT APPROPRIATE LICENSING CATEGORY], or work in any non-direct patient position that requires licensure. In the event Respondent should leave California to practice outside the state, Respondent must provide written notification (within five (5) calendar days) to the Board of the dates of departure and anticipated return to the state. Respondent's probation is tolled, if and when respondent ceases practicing in California. Practice outside of California will not apply to the reduction of the probationary period.

In the event Respondent ceases to practice a minimum of sixteen (16) hours per calendar week or sixty-four (64) hours per calendar month in California, Respondent must provide written notification of that fact to the Board. The period when the Respondent is not practicing the minimum number of hours noted above, will not apply to the reduction of the probationary period. Absence from practice shall not relieve the Respondent from maintaining a current license. For purposes of this term and condition, non-practice due to Board ordered suspension shall not be considered a period of non-practice. If Respondent stops practicing in California for a total of five (5) years for a speech-language pathologist, audiologist, or speech-language pathology assistant, or three (3) years for a hearing aid dispensers, Respondent's license shall be automatically cancelled.

If Respondent has not complied with this term and condition during the probationary

period, and Respondent has presented sufficient documentation of his or her good faith efforts to comply with this term and condition, and if Respondent is in compliance with all other probation terms and conditions, the Board, in its sole discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this term and condition. During the one year extension, all original terms and conditions of probation shall apply unless they have been modified by the Board via a petition for modification of probation.

Rationale: *This provides the Board with an opportunity to monitor the Respondent and determine if they can perform the functions and duties of his or her licensing category in a competent manner. It also prevents Respondent from merely "waiting out" the period of probation and avoiding the necessity of demonstrating competence and compliance with probation terms and conditions.*

11. MAINTAIN A VALID LICENSE

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

~~Should Respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement, Respondent's license shall be subject to any and all terms of this probation not previously satisfied.~~

13. VOLUNTARY LICENSE SURRENDER

During Respondent's term of probation, if he or she wishes to cease practice, Respondent may request in writing to surrender the license(s) to the Board. The Board shall evaluate the request based on the factual circumstances surrounding that particular request, and notify Respondent in writing whether is has been granted. Upon formal acceptance of the license surrender, Respondent's license will no longer be subject to the terms and conditions of probation. Respondent shall return the pocket license(s) and wall certificate(s) to the Board within ten (10) days of the effective date of the surrender.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. If Respondent re-applies for a license, the application shall be treated as a petition for reinstatement of a revoked license.

Rationale: *If Respondent feels he or she cannot follow any one of the terms and conditions of the probation order, this term and condition provides him or her the option to voluntarily surrender his or her license.*

124. VIOLATION OF PROBATION

If Respondent violates probation in any respect, the Board may seek to revoke probation and carry out the disciplinary order that was stayed. The Respondent shall receive prior notice and the opportunity to be heard. If a Petition to Revoke Probation,

an Accusation, a Petition to Vacate Stay or other formal disciplinary action is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended and Respondent shall comply with all probation terms and conditions until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

Rationale: *This allows the Board to carry out the disciplinary order stated in the decision when a Respondent fails to comply with any of his or her probation terms and conditions.*

135. COMPLETION OF PROBATION

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

Rationale: *When the Respondent has completed his or her term of probation by successfully fulfilling all of the terms and conditions, he or she has demonstrated his or her ability to practice unrestricted.*

OPTIONAL ADDITIONAL TERMS AND CONDITIONS OF PROBATION (146-268)

146. SUBMIT TO EXAMINATION BY PHYSICIAN

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

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

Rationale: This permits the Board to require the probationer to obtain appropriate treatment for physical problems/disabilities which could affect safe practice. The physical examination can also be conducted to ensure that there is no physical evidence of alcohol/drug abuse.

157. PSYCHOLOGICAL EVALUATION

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

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall provide to the Respondent, the name of one or more proposed evaluators ~~for prior approval by the Board~~ approved to conduct the psychological evaluation. Respondent must notify the Board if the respondent has a familial, business or other relationship that would pose a conflict in the evaluator completing the psychological evaluation.

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

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the evaluator shall verbally notify the Board within ~~three (3)~~ one (1) working days. The Board shall notify the Respondent in writing of the evaluator's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent. Respondent shall document compliance in the manner required by the Board.

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

Rationale: Psychological evaluations shall be utilized when an offense calls into question the judgment and/or emotional and/or mental condition of the Respondent or where there has been a history of abuse or dependency on alcohol or controlled substances. When appropriate, Respondent shall be restricted from rendering services under the terms and conditions of probation until he or she has undergone an evaluation, the evaluator has recommended resumption of practice, and the Board has accepted and approved the evaluation.

168. PSYCHOTHERAPY

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

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

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

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

Rationale: This should be imposed whenever there is evidence that the Respondent may have a psychological problem that impacts his or her ability to provide safe and efficacious services to the public. If the Respondent is already in therapy this condition should be imposed to ensure that he or she continues to receive help.

19. CLINICAL DIAGNOSTIC EVALUATION

Within 20 days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license shall cease practice for minimum of 1 month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing as prescribed by the Board.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed.

unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent shall comply with any restrictions or recommendations made as a result of the clinical diagnostic evaluation. Respondent's license may be suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one (1) month of negative drug test results.

Rationale: This provision should be included when a Respondent's license is placed on probation for a substance or alcohol abuse problem so that the Board has the ability to order at any time during the probation period a Respondent to undergo an evaluation to determine if he or she is currently safe to practice.

17. REHABILITATION PROGRAM

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

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

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

4820. ATTEND CHEMICAL DEPENDENCY SUPPORT AND RECOVERY GROUPS

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

Rationale: This provision should be included when a Respondent has an alcohol or drug problem so that the Board can monitor whether the Respondent is in violation of probation.

4921. ABSTAIN FROM CONTROLLED SUBSTANCES

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

Rationale: This provision should be included when a Respondent has a substance abuse problem so that the Board can monitor whether the Respondent is in violation of probation.

202. ABSTAIN FROM USE OF ALCOHOL

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

Rationale: This provision should be included when a Respondent has an alcohol problem so that the Board can ensure that consumption of alcohol does not pose a consumer protection issue.

243. SUBMIT BIOLOGICAL FLUID SAMPLES

Respondent shall immediately submit to random and directed biological fluid testing paid for by Respondent, at the request of the Board or its designee. The Respondent shall be subject to a minimum of fifty-two (52) random tests per year within the first year of probation, or an appropriate testing frequency as determined by the Board, and at minimum of thirty-six (36) random tests per year thereafter for the duration of the probationary term. ~~Positive test results will be reported to the Board~~

Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board at least fifteen (15) days prior to the vacation or travel.

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

Rationale: This provision should be included when a Respondent's license is placed on probation for a substance or alcohol abuse problem so that the Board can monitor whether or not the Respondent is abstaining from the use of banned substances or alcohol.

224. TAKE AND PASS LICENSURE EXAMINATION

Option #1:

Respondent shall take and pass the first administration after the effective date of this decision of the written and/or practical licensure examination as designated by the Board. If Respondent fails the examination, Respondent must take and pass a re-examination consisting of the written and/or practical licensure examination which is administered for the purpose of licensure. If respondent is required to take and pass both the written and practical examinations, the written examination must be taken and passed prior to taking the practical examination. The waiting period between repeat written examinations shall be at least two weeks, until the examinations are passed. Respondent shall pay all examination fees and pass the required examinations no later than one-hundred (100) days prior to the termination date of probation.

Option #2 (Condition Precedent):

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

Rationale: *In cases involving evidence of extreme departures from the standard of care, as a result of a lack of knowledge and skill required to be minimally competent to practice, it may be appropriate to require the Respondent to take and pass licensing examination(s) during the course of the probation period. In some instances, it may be appropriate for practice to be suspended until the examination is passed (condition precedent).*

235. SUPERVISED PRACTICE

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

~~Respondent may not function as a supervisor for any required professional experience (RPE) candidate during the period of probation or until approved by the Board.~~

Within sixty (60) days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which Respondent's practice would be supervised. The Board will advise Respondent within two weeks whether or not the proposed supervisor and plan of supervision are approved. Respondent shall not practice until receiving notification of Board of the approval of Respondent's choice of a supervisor and plan of supervision.

The plan of supervision shall be [INSERT METHOD](e.g. *direct and require the physical presence of the supervisor at the actual location during the time services are performed*) (*general and not require the physical presence of the supervisor during the time services are performed, but does require an occasional, random review of the work performed as well as quarterly monitoring visits at the office or place of practice*). Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each proposed supervisor shall be a California licensed [SELECT LICENSE TYPE] who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in California for at least three (3) years and have no current or prior disciplinary action by the Board. An administrative citation and fine does not constitute discipline and therefore, in and of itself, is not a reason to deny an individual as a supervisor.

The supervisor shall be independent, with no prior business, or professional relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner or associate of Respondent. If the supervisor terminates his or her supervision or is no longer available to serve in the supervisory role, Respondent shall not practice until a new supervisor has been approved by the Board and necessary documents are filed with the Board. All costs of the supervision shall be borne by the Respondent.

OPTION: Additionally, Respondent may be prohibited from engaging in solo practice as well as being required to work in a supervised environment.

Rationale: *This allows the Board to monitor the competency of Respondent by use of a fellow practitioner. It is most appropriate in cases involving incompetence, negligence, billing and/or document fraud, and sexual misconduct. The type of supervision needs to be clearly defined relative to the necessity for the presence of the supervisor. Direct supervision would require the physical presence of the supervisor during all time services are performed. General supervision does not require the physical presence of the supervisor, and may be appropriate for violations that do not involve direct patient harm.*

26. WORKSITE MONITOR

Respondent shall submit the name of the proposed worksite monitor within (twenty) 20 days of the effective date of the Decision. Respondent shall sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board and the other conditions noted above are fulfilled.

Rationale: *This provision should be included when a Respondent's license is placed on probation for substance or alcohol abuse so that the Board becomes aware of potential problems a probationer may have before any patient harm occurs.*

247. RESTRICTIONS ON LICENSED PRACTICE

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

During probation Respondent is prohibited from (insert restriction).

Rationale: *In cases wherein some factor of the patient population at large (e.g. age, gender) may put a patient at risk if in treatment with the Respondent, this term and condition should be utilized. Additional language can be added for clarification.*

~~25. RECOVERY OF COSTS~~

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

~~268. ACTUAL SUSPENSION OF LICENSE~~

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

~~***Rationale:*** This should be imposed when it is appropriate for the licensee to complete other terms and conditions to ensure consumer protection before the licensee is safe to resume practice.~~

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

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

~~Suggested language for applicants who are placed on probation:~~

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

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

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

Suggested language for reinstatement of licensure with conditions of probation:

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

Recommended Action by Violation

The Business and Professions Code section 2530 et. Seq., and general provision sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. Below are the code sections with the recommended disciplinary actions listed by the degree of the offense.

When filing an Accusation, the Office of the Attorney General may also cite additional related statutes and regulations.

*Note: Under Term and Conditions of Probation you will find the applicable numbered terms and conditions to include in a decision and order.

PENALTIES FOR DISCIPLINARY ACTIONS

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

UNPROFESSIONAL CONDUCT (GENERAL)

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

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Psychological Evaluation (157) Supervised Practice (235) Restrictions on Licensed Practice (257) <u>Actual Suspension of License</u> (278)

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

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

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Psychological Evaluation (157) Supervised Practice (235) Restrictions on Licensed Practice (257) <u>Actual Suspension of License</u> (278)

UNPROFESSIONAL CONDUCT -- SECURING LICENSE UNLAWFULLY

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

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

MENTAL OR PHYSICAL ILLNESS

Section 820 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	5 Years Probation <u>Standard Terms and Conditions of Probation (1-15)</u> <u>Submit to Examination by Physician (16)</u> <u>Psychological Evaluation (17)</u> If warranted: <u>Psychotherapy (18)</u> <u>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

Note: In some instances public safety can only be assured by removing the licensee from practice.

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

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

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

Submit to Examination by Physician Exam (146)
Clinical Diagnostic Evaluation (19)
Attend Chemical Dependency Support and Recovery
Groups (1820)
Abstain from Drugs Controlled Substances and
Alcohol (19-201-22)
Submit Biological Fluids Samples (243)
Worksite Monitor (26)
Supervised Practice (235)
Actual Suspension of License (278)
 If warranted:
 Psychological Evaluation (157)
 Psychotherapy (168)
 Drug and Alcohol Rehabilitation (17)
 Restrictions on Licensed Practice (257)
 Suspension (26)

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

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

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

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation <u>Standard Terms and Conditions of Probation (1-135)</u> <u>Submit to Examination by Physician Exam (146)</u> <u>Clinical Diagnostic Evaluation (19)</u> <u>Attend Chemical Dependency Support and Recovery</u> <u>Groups (1820)</u> <u>Abstain from Drugs Controlled Substances and</u> <u>Alcohol (19-201-22)</u> <u>Submit Biological Fluids Samples (243)</u> <u>Supervised Practice (235)</u> <u>Worksite Monitor (24)</u> <u>Actual Suspension of License (278)</u> If warranted: Psychological Evaluation (157) Psychotherapy (168) Drug and Alcohol Rehabilitation (17) Restrictions on Licensed Practice (257)

~~Suspension (26)~~

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

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

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

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) <u>Clinical Diagnostic Evaluation</u> (17) <u>Attend Chemical Dependency</u> Support and Recovery Groups (1820) Abstain from <u>Drugs</u> <u>Controlled Substances</u> and Alcohol (19-201-22) Submit Biological Fluids <u>Samples</u> (243) <u>Worksite Monitor</u> (24) <u>Actual Suspension of License</u> (278) If warranted: <u>Submit to Physical Examination</u> by Physician (146) Psychological Evaluation (157) <u>Drug and Alcohol Rehabilitation</u> (17) <u>Supervised Practice</u> (235) <u>Restrictions on Licensed Practice</u> (257) <u>Suspension</u> (26)

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

UNPROFESSIONAL CONDUCT -- ADVERTISING

Section 1399.156.4 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

If warranted:
Supervised Practice (235)

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

Section 2533(e) of the Business and Professions Code

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms and Conditions of Probation (1-135)
Supervised Practice (235)
If warranted:
Submit to Physician Examination by Physician(146)
Psychological Evaluation (157)
Restrictions on Licensed Practice (257)
Actual Suspension of License (278)

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

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

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms and Conditions of Probation (1-135)

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

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

MAXIMUM Revocation or Denial

MINIMUM 3 Years Probation
Standard Terms and Conditions of Probation (1-135)
Supervised Practice (235)
If warranted:
Psychological Evaluation (157)
Psychotherapy (168)
Restrictions on Licensed Practice (257)
Actual Suspension of License (278)

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

UNPROFESSIONAL CONDUCT- INCOMPETENCE OR NEGLIGENCE

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

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135) <u>Supervised Practice</u> (235) If warranted: Psychological Evaluation (157) Psychotherapy (168) <u>Restrictions on Licensed Practice</u> (257) <u>Actual Suspension of License</u> (278)

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

UNPROFESSIONAL CONDUCT BY SPEECH-LANGUAGE PATHOLOGY CORPORATION OR AUDIOLOGY CORPORATION

Section 2537, 2537.2, 2537.3 & 2537.4 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

DISCIPLINARY ACT BY FOREIGN JURISDICTION

Section 141 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Support and Recovery Groups (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Physical Examination (14) Psychological Evaluation (15) Drug and Alcohol Rehabilitation (17)

~~Supervision (23)~~
~~Restricted Practice (25)~~
~~Suspension (27)~~
Additional Probation Terms and Conditions (16-28)

SEXUAL MISCONDUCT

Section 726 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135) Supervised Practice (235) If warranted: Psychological Evaluation (157) Psychotherapy (168) Restrictions on Licensed Practice (257) <u>Actual Suspension of License (278)</u>

VIOLATION OF REQUIRED PROFESSIONAL EXPERIENCE (RPE) REGULATIONS

Sections 1399.153 – 1399.153.10 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

VIOLATION OF LAWS AND REGULATIONS RELATING TO SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AIDES

Section 2530.6 of the Business and Professions Code

Sections 1399.154 – 1399.154.7 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

VIOLATION OF LAWS AND REGULATIONS RELATING TO SPEECH-LANGUAGE PATHOLOGY ASSISTANTS

Sections 2533 & 2538.1 of the Business and Professions Code

Sections 1399.170.19 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Physician Exam (14) Psychological Examination (15) Psychotherapy (16) Drug and Alcohol Rehabilitation (17) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Supervision (23) Restricted Practice (24) Suspension (26) <u>Additional Terms and Conditions of Probation (16-28)</u>

PENALTIES FOR DISCIPLINARY ACTIONS

<p><i>Except where otherwise indicated, the following terms and conditions apply to hearing aid dispensers and dispensing audiologists unless noted</i></p>

UNLICENSED PRACTICE

Section 2538.20* of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>2 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>If warranted:</u> <u>Actual Suspension of License (28)</u>

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

Section 2538.30 of the Business and Professions Code

<u>MAXIMUM</u>	<u>License Denied</u>
<u>MINIMUM</u>	<u>License Issued, 2 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u>

PRACTICING WITHOUT NOTIFYING THE BOARD OF BUSINESS ADDRESS

Section 2538.33* of the Business and Professions Code

MAXIMUM 2 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

MINIMUM Public Repraval

PRACTICING WITHOUT PROPERLY POSTING LICENSE
Section 2532.5 of the Business and Professions Code

MAXIMUM 2 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

MINIMUM Public Repraval

PRACTICING FROM A BRANCH OFFICE WHICH IS NOT LICENSED
Section 2538.34 of the Business and Professions Code

MAXIMUM 2 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

MINIMUM Public Repraval

FAILURE TO DELIVER PROPER RECEIPT
Section 2538.35 of the Business and Professions Code

MAXIMUM 3 Years Probation
If warranted:
Standard Terms and Conditions of Probation (1-15)
Actual Suspension of License (28)

MINIMUM Public Repraval

FAILURE TO MAKE PHYSICIAN REFERRAL
Section 2538.36 of the Business and Professions Code

MAXIMUM Revocation

MINIMUM _____ 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Supervised Practice (25)
Actual Suspension of License (28)

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

Section 2538.37* of the Business and Professions Code

MAXIMUM _____ Revocation

MINIMUM _____ 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Take and Pass Licensure Examination (24)
Supervised Practice (25)
Restrictions on Licensed Practice (27)
Actual Suspension of License (28)

FAILURE TO MAINTAIN REQUIRED RECORDS
Section 2538.38 of the Business and Professions Code

MAXIMUM _____ 1 year suspension, stayed with 3 years probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Supervised Practice (25)
Actual Suspension of License (28)

MINIMUM _____ Public Repeval

THE IMPROPER OR UNNECESSARY FITTING OF A HEARING AID

Section 2533(f) of the Business and Professions Code

MAXIMUM _____ Revocation

MINIMUM _____ 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Take and Pass Licensure Examination (24)
Supervised Practice (25)
Actual Suspension of License (28)

GROSS NEGLIGENCE

Section 2533(f) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>If warranted:</u> <u>Take and Pass Licensure Examination (24)</u> <u>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

REPEATED NEGLIGENT ACTS

Section 2533(f) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>If warranted:</u> <u>Take and Pass Licensure Examination (24)</u> <u>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

CRIMINAL CONVICTION

Sections 480 and 2533(a) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>If warranted:</u> <u>Additional Terms and Conditions of Probation</u> <u>(16-28)</u>

OBTAINING A LICENSE BY FRAUD

Section 2533(b) of the Business and Professions Code

<u>MINIMUM</u>	<u>Revocation</u>
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USING THE TERM "DOCTOR", "PHYSICIAN" OR "AUDIOLOGIST" UNLESS AUTHORIZED

Section 2533(h) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

FRAUD OR MISREPRESENTATION IN PRACTICE
Section 2533(e) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Psychological Evaluation (17)
Supervised Practice (25)
Actual Suspension of License (28)

EMPLOYING AN UNLICENSED PERSON
Section 2533(e) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Supervised Practice (25)
Actual Suspension of License (28)

ILLEGAL ADVERTISING
Section 2533(d) & (i)* of the Business and Professions Code

MAXIMUM Revocation

MINIMUM Public Repeval

LETTING ANOTHER USE HIS OR HER LICENSE
Section 2533(e) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Supervised Practice (25)
Actual Suspension of License (28)

DOING ANY ACT WHICH WOULD BE GROUNDS FOR LICENSE DENIAL
Section 2533(j) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Additional Terms and Conditions of Probation (16-28)

VIOLATION OF SECTION 1689.6 OR 1793.02 OF THE CIVIL CODE
Section 2533(k) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Take and Pass Licensure Examination (24)
Supervised Practice (25)
Actual Suspension of License (28)

SALE OR BARTER OF A LICENSE OR OFFER TO SELL OR BARTER A LICENSE
Section 2538.43 of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Psychological Evaluation (17)
Actual Suspension of License (28)

PURCHASE OR PROCURE BY BARTER A LICENSE WITH THE INTENT TO PRACTICE
Section 2538.44 of the Business and Professions Code

MINIMUM Denial of right to seek licensure as a hearing aid dispenser pursuant to B& P480(a).

ALTER WITH FRAUDULENT INTENT ANY MATERIAL ISSUED BY THE BOARD
Section 2538.45 of the Business and Professions Code

If done by a temporary licensee:

MINIMUM Revocation of temporary license and denial of permanent licensure.

If done by a permanent licensee:

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Psychological Evaluation (17)
Supervised Practice (25)
Actual Suspension of License (28)

LYING ON THE LICENSE APPLICATION
Section 2538.47 of the Business and Professions Code

MINIMUM Revocation/License denial pursuant to B&P 480 (c)

PRACTICING WITHOUT A VALID LICENSE
Section 2538.48* of the Business and Professions Code

MAXIMUM Revocation

MINIMUM Public Repeval

UNLAWFUL PRACTICE
Section 2538.49 of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Take and Pass Licensure Examination (23)
Supervised Practice (25)

ADVERTISING WITHOUT A VALID LICENSE
Section 2538.50* of the Business and Professions Code

MAXIMUM _____ Revocation/Denial of Licensure

MINIMUM _____ Public Reproval

PRACTICING WITHOUT A BUSINESS ADDRESS
Section 2538.51 of the Business and Professions Code

MAXIMUM _____ 5 Years Probation

MINIMUM _____ Public Reproval

**Does not apply to a Dispensing Audiologist*

Draft

California

Tests Adding a Computer-Delivered Version:

This computer-delivered test title will also be available via paper. No adoption paperwork will be required for this test; it will be added to the state's valid test list automatically unless otherwise instructed.

Available in December 2012

- **5330 Speech-Language Pathology** (paper test code: 0330)

From: DelMugnaio, Annemarie@DCA
Sent: Tuesday, March 27, 2012 2:26 PM
To: 'kpruner@ets.org'
Subject: New Audiology Test 0341

Good Afternoon Kathy-

The California Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board reviewed the information sent by ETS in October 2011 regarding the changes to the Audiology examination and the new established scoring system and minimum passing score. In November 2011, the Board received follow-up information that the new minimum passing score would not be implemented until January 2013 in order to provide states ample time to pursue any necessary regulatory changes.

While California regulations do not specify an actual minimum passing score, we must validate the score identified by ETS and the Board must vote to accept the new established score. To that end, the Board is seeking information from ETS on the changes to the examination and how the new Audiology test differs from the prior version. The Board is also interested in an explanation of the changes to the scoring methodology, scoring percentiles, and pass/fail statistics. We did receive a copy of the Standard Setting Technical Report, August 2011, but did not find information in the report comparing the new test and standards to the prior version.

I'm hoping you can direct me to the information the Board is requesting or please forward the request to the appropriate person for further guidance.

Thank you for your assistance.

Annemarie Del Mugnaio
Executive Officer
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

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CURRENT LICENSE POPULATION

AS OF 03/31/2012

AU / DAU	
Active AU	600
Active DAU	923
Inactive	124
Renewal Hold	22
Delinquent	258

HAD	
Active	937
Inactive	56
Delinquent	131

SLP	
Active	11,754
Inactive	1,034
Renewal Hold	107
Delinquent	1,832

HAD TEMP TRAINEES	
Active	94
Inactive	2
Delinquent	16

SLP ASSISTANTS	
Active	1,485
Inactive	83
Renewal Hold	19
Delinquent	313

HAD TEMPORARY	
Active	8

RPE TEMP	
Active	721
Delinquent	86

HAD BRANCH OFFICE	
Active	588
Delinquent	131

190	
Active	190
Delinquent	83

ENFORCEMENT STATISTICS

Qtr1 (Jul-Sep) Qtr2 (Oct-Dec) Qtr3 (Jan-Mar) Qtr4 (Apr-Jun)

SP- Speech-Language Pathology AU- Audiology HAD- Hearing Aid Dispensers

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
COMPLAINT ACTIVITY	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Opened	122	165	72	166	57	95	12	40	15	26	30	29		
Closed	99	131	113	172	47	101	7	44	13	18	27	39		
Pending	61	88	43	103	156	343	49	104	52	124	55	115		

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
VIOLATION TYPE OF OPENED COMPLAINTS	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Discipline by Another State/Agency	0	0	1	0	1	0	0	0	0	0	1	0		
Incompleteness/Negligence	4	10	6	11	13	4	7	2	6	1	0	1		
Unprofessional Conduct	14	123	19	113	34	61	17	25	5	14	12	22		
Unlicensed/Unregistered Activity	16	16	7	16	9	18	5	6	2	9	2	3		
Criminal Charges/Convictions	33	5	26	18	27	2	10	2	2	0	15	0		
Substance Abuse	0	0	1	0	0	0	0	0	0	0	0	0		
Fraud	3	6	7	6	9	6	9	3	0	0	0	3		
Non-Jurisdictional	1	5	0	0	0	2	0	1	0	1	0	0		
Other	51	0	5	2	1	2	1	1	0	1	0	0		
TOTAL	122	165	72	166	94	95	49	40	15	26	30	29	0	0

Advertising Violations: FY 09/10-62, FY 10/11-58

CLOSED COMPLAINT'S PROCESSING TIMES	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
0 - 3 Months	66	84	23	43	9	20	0	12	3	4	6	4		
4 - 6 Months	9	8	12	31	9	12	1	5	5	3	3	4		
7 - 12 Months	6	1	13	50	12	26	0	13	3	5	9	8		
13 - 24 Months	2	1	27	38	5	28	0	13	2	6	3	9		
25 - 36 Months	13	3	16	10	0	15	0	1	0	0	0	14		

ENFORCEMENT STATISTICS

Qtr1 (Jul-Sep) Qtr2 (Oct-Dec) Qtr3 (Jan-Mar) Qtr4 (Apr-Jun)

SP- Speech-Language Pathology AU- Audiology HAD- Hearing Aid Dispensers

INVESTIGATION ACTIVITY	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Opened	15	28	12	19	16	20	11	4	1	10	4	6		
Closed	3	34	15	11	12	23	6	9	0	6	6	8		
Pending	23	19	8	20	53	64	40	19	7	23	6	22		

CLOSED INVESTIGATION'S PROCESSING TIMES	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
0 - 3 Months	0	0	4	0	0	1	0	0	0	1	0	0		
4 - 6 Months	1	2	4	2	3	4	3	2	0	0	0	2		
7 - 12 Months	0	20	12	2	1	9	0	4	0	2	1	3		
13 - 24 Months	0	9	5	6	8	8	3	2	0	3	5	3		
25 - 36 Months	2	3	1	1	0	1	0	1	0	0	0	0		

COMPLAINT DISPOSITION & CLOSED INVESTIGATIONS	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
No Violation	13	11	21	18	8	17	1	8	3	3	4	6		
Information on File	21	14	29	36	4	11	0	5	0	3	4	3		
Insufficient Evidence	4	8	5	10	5	7	0	2	3	5	2	0		
Subject Educated	9	38	5	42	7	30	0	7	1	1	6	22		
Non-Jurisdictional	0	7	0	2	3	2	0	1	1	1	2	0		
Compliance Obtained	0	1	1	0	0	1	0	1	0	0	0	0		
Referred to Gov't Agency	0	0	0	0	0	1	0	1	0	0	0	0		
Other	9	23	17	33	3	11	1	7	0	1	2	3		
Citation	34	2	17	5	4	10	4	5	0	3	0	2		
Conditional Licenses	1	0	1	0	0	0	0	0	0	0	0	0		
Referred tp AG/DA	8	21	16	19	11	4	1	3	4	0	6	1		
Mediated	0	6	1	7	2	7	0	4	1	1	1	2		
TOTAL	99	131	113	172	47	101	7	44	13	18	27	39	0	0

ENFORCEMENT STATISTICS

Qtr1 (Jul-Sep) Qtr2 (Oct-Dec) Qtr3 (Jan-Mar) Qtr4 (Apr-Jun)

SP- Speech-Language Pathology AU- Audiology HAD- Hearing Aid Dispensers

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
PROBATION CASES	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Opened	10	4	31	7	4	6	0	2	2	2	2	2		
Tolled	6	0	28	3	19	3	6	1	6	1	7	1		
Conditional Licenses	8	0	26	0	2	0	0	0	2	0	0	0		
TOTAL	24	4	85	10	25	9	6	3	10	3	9	3	0	0

CITATIONS ISSUED	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
	34	2	17	5	4	10	4	5	0	3	0	2		

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
AG CASE ACTIVITY	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Opened	7	19	17	2	10	4	1	3	3	0	6	1		
Closed	7	5	3	2	8	4	0	1	2	1	6	2		
Pending	11	7	23	7	58	21	21	6	19	7	18	8		

CLOSED AG CASE'S PROCESSING TIMES	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
0 - 1 Years	3	4	1	0	1	5	0	0	0	0	1	5		
1 - 2 Years	3	1	1	0	0	3	0	0	0	0	0	3		
2 - 3 Years	0	0	1	1	2	1	0	0	0	1	2	0		
3 - 4 Years	0	0	0	1	2	0	0	0	2	0	0	0		
4+ Years	1	0	0	0	3	1	0	1	0	0	3	0		

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
ADMINISTRATIVE FILINGS	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Accusations	3	2	6	2	8	1	6	0	0	0	2	1		
Statement of Issues	0	0	0	1	1	0	0	0	0	0	1	0		
Petition for Penalty Relief	1	0	1	0	1	0	0	0	0	0	1	0		
Petition for Psychiatric Evaluation	0	0	0	0	0	0	0	0	0	0	0	0		
TOTAL	4	2	7	3	10	1	6	0	0	0	4	1	0	0

ENFORCEMENT STATISTICS

Qtr1 (Jul-Sep) Qtr2 (Oct-Dec) Qtr3 (Jan-Mar) Qtr4 (Apr-Jun)

SP- Speech-Language Pathology AU- Audiology HAD- Hearing Aid Dispensers

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
ADMINISTRATIVE FIINAL DECISIONS	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Revocation	0	0	0	0	0	0	0	0	0	0	0	0		
Revocation, Stayed, Prob	3	1	0	1	2	1	0	0	0	0	2	1		
Rev, Stayed, Prob, Susp	0	0	0	0	0	0	0	0	0	0	0	0		
License Surrender	1	0	2	1	1	1	0	0	0	0	1	1		
License Denied	0	2	0	0	0	0	0	0	0	0	0	0		
Petition for Penalty Relief Denied	0	0	2	0	2	0	0	0	1	0	1	0		
Petition for Penalty Relief Granted	0	0	0	0	0	0	0	0	0	0	0	0		
Petition for Penalty Relief Withdrawn	0	0	0	0	0	0	0	0	0	0	0	0		
Reprimands/Reprovals	0	0	1	0	0	0	0	0	0	0	0	0		
Stipulated Settlement	1	0	0	0	4	0	0	0	2	0	2	0		
ISO's Ordered	0	0	0	0	1	0	0	0	1	0	0	0		
Declined by AG	2	1	0	0	1	1	0	1	0	0	1	0		
Conditional License	0	1	0	0	2	0	0	0	2	0	0	0		
Discipline Suspended	0	0	0	0	0	0	0	0	0	1	0	0		
TOTAL	7	5	5	2	13	4	0	1	6	1	7	2	0	0

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
DECISIONS - TYPE OF VIOLATION	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD
Discipline by Another State/Agency	0	0	0	0	1	0	0	0	1	0	0	0		
Incompetence/Negligence	4	0	1	0	0	1	0	0	0	0	0	1		
Unprofessional Conduct	0	1	0	0	1	1	0	0	0	1	1	0		
Unlicensed/Unregisterd Activity	1	0	0	0	1	1	0	1	1	0	0	0		
Criminal Charges/Convictions	1	3	1	0	3	0	0	0	2	0	1	0		
Fraud	0	1	1	2	1	1	0	0	1	0	0	1		
Other	1	0	1	0	3	0	0	0	1	0	2	0		
TOTAL	7	5	4	2	10	4	0	1	6	1	4	2	0	0

LICENSING WORKLOAD REPORT

LICENSES ISSUED	FY09/10	FY10/11	FY11/12	Jul	Aug	Sep	Q1	Oct	Nov	Dec	Q2	Jan	Feb	Mar	Q3	Apr	May	Jun	Q4
AU	43	57	49	9	10	6	25	8	3	1	12	5	5	2	12				0
DAU	946	73	20	0	12	2	14	0	0	0	0	1	2	3	6				0
SLP	692	734	626	66	107	73	246	38	90	56	184	58	67	71	196				0
SLPA - <i>(Registered)</i>	290	312	298	34	61	50	145	43	37	14	94	8	27	24	59				0
RPE'S	566	555	587	65	115	106	286	92	69	47	208	32	26	35	93				0
SLP Issued	529	513	568	53	112	104	269	91	68	47	206	32	26	35	93				0
AU Issued	37	42	19	12	3	2	17	1	1	0	2	0	0	0	0				0
AIDES - <i>(Approved)</i>	63	52	32	2	0	2	4	5	7	9	21	0	2	5	7				0
SLP Issued	27	24	11	1	0	0	1	1	5	3	9	0	0	1	1				0
AU Issued	36	28	21	1	0	2	3	4	2	6	12	0	2	4	6				0
CPD PROVIDERS - <i>(Approved)</i>	14	16	14	1	4	1	6	1	2	0	3	1	0	4	5				0
HAD Permanant	89	50	54	0	22	4	26	1	0	9	10	7	10	1	18				0
HAD Trainees	98	77	67	8	11	7	26	4	8	9	21	7	5	8	20				0
HAD Licensed in Another State	15	12	5	0	0	0	0	0	1	1	2	0	3	0	3				0
APPLICANTS (hand count)	<i>no count</i>	<i>no count</i>	41	5	8	7	20	3	6	6	15	1	3	2	6				0
HAD Branch Office	192	205	124	13	20	13	46	5	16	16	37	19	11	11	41				0