



## **MEETING NOTICE & AGENDA**

**July 26-27, 2012**

Wyndham Garden Hotel  
"Aztec Room"  
3737 Sports Arena Blvd  
San Diego, CA  
(916) 263-2666

### **July 26, 2012 1:00 p.m. Hearing Aid Dispensers Committee Meeting**

*(Deane Manning-Committee Chair, Hearing Aid Dispenser; Sandra Danz-Hearing Aid Dispenser; Alison Grimes-Dispensing Audiologist; Rodney Diaz-Otolaryngologist)*

- I. Call to Order
- II. Introductions
- III. Approval of the January 13, 2012 Hearing Aid Dispensers Committee Meeting Minutes
- IV. Review Public Comments to Amendments to the Hearing Aid Dispenser's Advertising Regulations and Related Guidelines (California Code of Regulations Section 1399.127)
- V. Update Regarding the Exemption Request of the Federal Drug Administration on Mail Order and Catalog Sales of Hearing Aids (Business & Professions Code Section 2539.2)

### **Upon Conclusion of Hearing Aid Dispensers Committee Meeting – Sunset Review Committee**

*(Alison Grimes, Dispensing Audiologist, Carol Murphy, Speech-Language Pathologist, Sandra Danz, Hearing Aid Dispenser; Jaime Lee- Public Member)*

- I. Call to Order
- II. Introductions
- III. Discussion Regarding the Sunset Review Report and Project Plan

### **Upon conclusion of the Hearing Aid Dispensers Committee Meeting - Meeting of the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board**

*(Alison Grimes, Board Chair-Dispensing Audiologist; Rodney Diaz-Otolaryngologist; Carol Murphy-Speech-Language Pathologist; Monty Martin-Public Member; Jaime Lee-Public Member; Deane Manning-Hearing Aid Dispenser; Sandra Danz-Hearing Aid Dispenser)*

- I. Call to Order
- II. Introductions
- III. Approval of Full Board Meeting Minutes of April 20, 2012
- IV. Executive Officer's Report

- A. Budget Update
- B. Status of Proposed Regulations
  - 1. Consumer Protection Enforcement Initiative (California Code of Regulations Sections 1399.150.3, 1399.151, 1399.156, & 1399.156.5)
  - 2. Supervision Qualifications for Speech-Language Pathology Assistants (SLPA) & Required Professional Experience Temporary License Holders and SLPA Educational Program Changes (California Code of Regulations Section 1399.153, 1399.170, 1399.170.6, 1399.170.10, 1399.170.11, & 1399.170.15)
  - 3. Continuing Education Requirements for Licensed Hearing Aid Dispensers- California Code of Regulations Sections 1399.140-1399.143
- C. Administrative Updates: Occupational Analysis for Hearing Aid Dispensers Examination, BreEze, Personnel Changes,
- D. Project Plan for Reviewing the English Language International Testing System (IELTS) Examination

- V. Legislation Update
  - A. Senate Bill 1444 - Anderson – Assistive Devices: Warranty
  - B. Assembly Bill 1454- Solorio- Worker’s Compensation: Audiologists
  - C. Other Legislation of Interest to the Board

VI. Review and approval of the 2012 Strategic Plan

**July 27, 2012**

**9:00 a.m. Meeting of the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board**

- VII. Committee Meeting Reports
  - A. Hearing Aid Dispensers Committee Report on the Exemption Request of the Federal Drug Administration and Recommendations on Amendments to the Hearing Aid Dispenser’s Advertising Regulations
  - B. Sunset Review Committee Report and Recommendations on the 2012 Report and Project Plan
- VIII. 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)
- IX. Discussion Regarding Changes to the National Examination in Audiology and Speech-Language Pathology as Reported by the Educational Testing Service
- X. Status of the Correspondence with Department of Developmental Services Regarding the Need for Further Services Provided by Regional Centers for Deaf/Hard of Hearing Children
- XI. Statistical Data on Licensing & Enforcement
- XII. Public Comment on Items Not on the Agenda
- XIII. Announcements – Next Board Meeting October 4-5, 2012 (Locations TBD)
- XIV. Adjournment

*MEETING AGENDAS CAN BE FOUND ON THE SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD’S WEBSITE AT [www.speechandhearing.ca.gov](http://www.speechandhearing.ca.gov)*

\*Members of the Board who are not members of a particular committee may be present at the Committee meetings. However, Board members who are not on the Committee may not participate.

Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda unless listed as information only.

Agenda items may be taken out of order to accommodate speakers and to maintain a quorum, unless noted as time specific.

The meeting facility is accessible to persons with a disability. Any person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board office at (916) 263-2666 or making a written request to Annemarie Del Mugnaio, Executive Officer of the Board: 2005 Evergreen Street, Suite 2100, Sacramento, California 95815. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

Note: The meeting as noticed will be broadcast live via webcast  
[http://www.dca.ca.gov/publications/multimedia/webcast\\_current.shtml](http://www.dca.ca.gov/publications/multimedia/webcast_current.shtml)



## **HEARING AID DISPENSERS MEETING MINUTES**

**January 13, 2012**

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

### **Committee Members Present**

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

### **Staff Present**

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

### **Board Members Present**

Monty Martin, M.A.  
Lisa O'Connor, M.A.

### **Board Members Absent**

Carol Murphy, M.A.

### **Guests Present**

Cynthia Peffers, HHP CA  
Tricia Hunter, HHP CA  
Rebecca Bingea, UCSF  
Marcia Raggio, CSHA, SFSU  
Patti Solomon-Rice, CSHA  
Bill Barnaby, CSHA

#### **I. Call to Order**

Deanne Manning called the meeting to order at 9:13 a.m.

#### **II. Introductions**

Those in attendance introduced themselves.

#### **III. Review Public Comments to Amendments to the Hearing Aid Dispenser's Advertising Regulations and Related Guidelines (California Code of Regulations Section 1399.127)**

Ms. Del Mugnaio referenced a public notice included in the meeting packets which invites licensees and consumers to provide input to the current advertising provisions for hearing aid dispensing. She explained that the notice was emailed to a number of consumer groups and professional associations including, the Hearing Healthcare Providers of CA, the California Academy of Audiology, and the California Speech-Language Hearing Association. Ms. Del Mugnaio explained that since the email was recently distributed

she had only received on comment thus far. She stated that the request for public comment is due by January 31, 2012.

Chairperson Manning stated that he received feedback from a few professionals who assumed that the public notice was more of an announcement that regulations changes to the current advertising provisions had already occurred instead of the notice being a request for public comment. He stated that since the final comment deadline is not until the end of January, the issue should be revisited at the next scheduled Committee meeting in order to consider further public input.

#### **IV. Review Existing Laws on Internet Sale of Hearing Aid Devices- Discuss Relevant Consumer Protection Issues**

Ms. Del Mugnaio reported that the Board is currently addressing the issue of hearing aids sold over the Internet. She stated that California law does not specifically address the sale of hearing aids over the Internet, but instead regulates the sale of hearing aids by catalog or direct mail. Ms. Del Mugnaio stated that the Board faces significant legal challenges in attempting to restrict the sale of hearing aids over the Internet, not only due to the fact that California law is silent on the issue, but also because federal regulations do not restrict the sale of hearing aids over the Internet and federal law prevent states from implementing laws that are more stringent or restrictive than federal rule. As such, the Board is dealing with a preemption issue. Ms. Del Mugnaio explained that states may request an exemption from federal regulations to implement provisions that exceed federal rule if the provisions are deemed necessary for protection of the public.

Ms. Yazigi explained that if the Board chooses to move forward with regulating the Internet sale of hearing aids, the term Internet sale must be included in the statute which would require a legislative change. She stated that the second layer required for the Board to regulate the Internet sale of hearing aids is to seek a federal exemption. Ms. Yazigi stated that if the Board directs her to move forward with seeking an exemption, she will correspond with the Federal Drug Administration (FDA) on exempting current law regarding hearing aids sold by catalog and direct mail as federal regulations do not restrict hearing aids sold by catalog or direct mail, and it would be in the Board's best interest to determine how the FDA will respond to the request for the exemption to the current statute prior to moving forward with a legislative change to include the sale of hearing aids over the Internet to California provisions. Ms. Yazigi reviewed current statute with the Board and explained provisions in California law which are already more restrictive than federal regulation and which the Board has not yet sought an exemption from the FDA; Business and Professions Code Section 2538.23 regarding the sale of hearing aids by catalog or direct mail is one such statute.

Chairperson Manning inquired about California law verses the FDA regulations in terms of observation of the purchaser's ear canal and mandatory referrals for a medical assessment should the seller identify one of the conditions listed in California law and federal regulations.

Ms. Yazigi explained that California law does require actual inspection of the ear canal and a written notification from the seller to the purchaser that the ear canal has been examined and that conditions requiring further medical treatment have been ruled out. Whereas, FDA regulations only require the seller to obtain a signed waiver from the purchaser regarding the specified seven (7) conditions and informing the purchaser that a medical assessment conducted by a physician is in their best interest. She stated the FDA regulations require the seller to include a warning statement in their hearing aid pamphlet about the specified seven (7) medical conditions which are listed in both federal regulations and also codified in state law.

Ms. Grimes inquired about a pending issue where WalMart has corresponded with the Board and challenged the Board's laws restricting the sale of hearing aids by a licensed hearing aid dispenser where the business transaction occurs via the Internet.

Ms. Yazigi stated that many of the authority issues raised by WalMart are pre-emption issues the Board must address with the FDA prior to pursuing any legal challenges.

The Committee discussed the process of selling hearing aids over the Internet and that it seems to be a product business transaction with no controls over the health care needs of the purchaser.

M/SC: Grimes/Danz

The Committee voted to recommend to the full Board that the Board delegate to Ms. Yazigi the task of preparing an exemption request to the FDA regarding the regulation of hearing aids sold over the Internet.

Chairperson Manning inquired about companies that sell hearing aids over the Internet and contract with licensed hearing aid dispensers to provide fitting and adjustment services and what liability the licensee has with respect to the refund of the hearing aid if that becomes an issue.

Ms. Del Mugnaio responded and stated that depending on the specific facts of the case, the licensee may be held accountable for securing a refund.

Ms. Bingea commented and stated that some consumers purchase hearing aids from a company/corporation and then once in possession of the device, independently seek out a dispenser to fit and adjust the hearing aid, but the dispenser has no contractual relationship with the company who sold the hearing aid to the consumer.

Ms. Del Mugnaio replied and stated that the Board would not take legal action against a dispenser who had no knowledge or business relationship with the company who sold a hearing aid to a consumer but failed to provide the appropriate refund.

Ms. Peffers inquired whether the Board has considered communicating with other states' licensing boards to determine whether other states are pursuing similar exemption requests of the FDA, or facing similar legal challenges in regulating hearing aids sold over the Internet and possibly collaborating with interested states on a joint communication to the FDA.

Ms. Yazigi commented that it may be helpful for the Board to communicate with the other states about their experiences with the issue, but that since each state has separate and distinct licensing provisions, it may not be possible to craft a joint exemption request letter.

The Committee agreed that the Board should communicate with other states regarding California's efforts to regulate the sale of hearing aids over the Internet and to gain information from the other states about their efforts regarding the same.

Chairperson Manning adjourned the meeting at 10:15 a.m.



**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](mailto: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**



May 30, 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 2538.36<sup>1</sup> and subdivision (b) of Section 2538.49<sup>2</sup> have been complied with.

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<sup>1</sup> 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

(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 2538.38<sup>3</sup>.

(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

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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 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.”

<sup>2</sup> 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.”

<sup>3</sup> The period of time provided for in BPC 2538.38 is seven years.

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. 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.<sup>4</sup> 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
- a. *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.
- b. *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)).
- c. *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 "Warning to Hearing Aid Dispensers" is

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<sup>4</sup> 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.

included in the User Instructional Brochure that accompanies the hearing aid (21 CFR 801.420(c)(2)).

- d. 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 impression, 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. 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).<sup>5</sup> 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**

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.

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<sup>5</sup> 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."

FDA Letter  
May 30, 2012

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





## International Hearing Society

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**Date:** May 1, 2012

**To:** State IHS Chapter and Licensing Board Leaders

**From:** Alissa Parady, IHS Government Affairs Manager  
aparady@ihsinfo.org; 571-212-8596

**Re:** **Sample legislative language targeting direct-to-consumer hearing aid sales and hearing aids marketed as personal sound amplifiers**

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In response to the growing incidence of hearing aids being sold direct-to-consumer through the internet or mail, including those being inappropriately marketed as personal sound amplifiers, the International Hearing Society has developed the attached resource for your consideration and use. Specifically, "Sample State Legislative Language Targeting Direct-to-Consumer Hearing Aid Sales and Personal Sound Amplifiers" is designed to provide state chapters and licensing boards with options for legislative language to strengthen and compliment existing licensing and consumer protection laws, and ensure that direct-to-consumer hearing aid retailers are held to the same standards as licensed hearing aid providers in order to ensure the highest level of consumer protection and safety.

Included for each of the options is an objective, which defines the overall goal of the language; and the suggested "New language" which may need to be customized in order to conform to your state law. In addition, we have included a rating and legal analysis of the risk of challenge based on the federal Food and Drug Administration Pre-emption Rule and the Dormant Commerce Clause. For a discussion on the risk rating, see the Q & A at the end of this document.

The Pre-emption Rule (21 USC 360K) states:

- (a) ... no State or political subdivision of a State may establish or continue in effect with respect to a device intended for human use any requirement—
  - (1) which is different from, or in addition to, any requirement applicable under this chapter to the device, and
  - (2) which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under this chapter.

The dormant Commerce Clause promotes a national market and the free flow of commerce between the states by preventing them from adopting economic protectionist policies. Upon application of the dormant Commerce Clause, it must be determined whether the challenged law discriminates against out-of-state entities. "Discrimination" for purposes of the Commerce Clause means "differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter."

Chapters and licensing boards are encouraged to review and evaluate each of the options outlined to determine which, if any, may be helpful and appropriate to pursue given your existing state laws and regulations, political will, and grassroots support. We also suggest working collaboratively with state audiology and otolaryngology associations to gather support, particularly as changes will likely affect their members and require opening the hearing aid specialist practice act and we want to minimize the risk of harmful changes being made by outside entities. Additionally, it may be necessary to include similar language in the audiology practice act if audiologists and hearing aid specialists are regulated under two separate acts.

We ask that you please let us know which options your particular state intends to pursue, so we can assist and track your progress. This will also be helpful with information-sharing among chapters. With questions or to discuss, please contact me directly at (571) 212-8596 or [aparady@ihsinfo.org](mailto:aparady@ihsinfo.org).

### **Q & A**

**Q: Why would we want to adopt something when it comes with a “Medium” risk rating?**

A: In considering the risk of pursuing a particular option, it is important to note that until a law is *successfully* challenged, it is the law. In addition, we believe there is reasonable evidence to support the validity of these laws if challenged. That being said, there is a risk that the law could be deemed invalid by the court of jurisdiction.

**Q: Have these options been incorporated into the IHS Model Licensure Act?**

A: No, these are not currently reflected in the Model Licensure Act. We purposely modeled some of the options off existing laws, which are in many cases different from the Model Licensure Act so as to avoid having to revise more of the current licensing law in each state than necessary and reduce chances of non-passage. Internally, IHS is working to revise the Model Licensure Act more broadly, and our plan is to incorporate as many of these options into the Model Licensure Act as possible.

**Q: Are you recommending we adopt all the language options?**

A: It may not be necessary or prudent to adopt all the options. It will be at the discretion of the state chapter and licensing board to determine which option(s) will fit best within the current law and achieve their goals; this may be just one or two. In addition, several of the options are geared toward ensuring all hearing aid sellers, internet-based or not, comply with the state licensing and/or consumer protection laws; therefore, the adoption of just one or two may suffice.

**International Hearing Society**  
**Sample State Legislative Language Targeting Direct-to-Consumer Hearing Aid Sales and Personal Sound Amplifiers**

<b>Objective</b>	<b>New Language</b>	<b>FDA Pre-emption Risk</b>	<b>Dormant Commerce Clause Risk</b>
<p><b>[Direct-to-Consumer Sales]</b> Revise the definition of the practice of hearing aid dispensing to ensure both the sale and the fitting of hearing aids, unique from one another, are considered hearing aid dispensing and require licensure by utilizing “or” language rather than “and” language. As a result, the sale of hearing aids alone would warrant licensure.</p> <p>*Note: This is not an exhaustive or fully detailed list of the full scope of practice of hearing aid specialists. Please see model bill for further suggestions on language if needed.</p>	<p>The practice of hearing aid dispensing includes: a) the measurement of human hearing by means of an audiometer or by other means approved by the board; b) the making of impressions for earmolds; c) selection or recommendation of hearing aids; d) programming or modification of hearing aids; e) fitting hearing aids; f) sale, attempted sale, or rental of hearing aids; or g) providing counseling and aural rehabilitative services.</p>	<p><b>Low:</b> Should not be affected by pre-emption, as it deals with subjects not addressed by the federal regulations.</p>	<p><b>Low:</b> Should not be affected by the dormant Commerce Clause as there is no discrimination against non-residents.</p>
<p><b>[PSAPs]</b> Revise the definition of a hearing aid to include devices that provide a gain great enough to be considered a hearing aid. This is aimed at hearing aids that are being marketed as personal sound amplifiers so that their distribution is not subject to applicable federal and state hearing aid-related consumer protection requirements.</p>	<p>“Hearing aid,” any wearable instrument or device a) designed for or offered for the purpose of aiding or compensating for impaired human hearing or b) that can provide more than 15 dB full on gain via 2 cc coupler at any single frequency from 200 through 6000 cycles per second; and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords.</p>	<p><b>Low:</b> Should not be affected by pre-emption, as it deals with subjects not addressed by the federal regulations.</p>	<p><b>Low:</b> Should not be affected by the dormant Commerce Clause as there is no discrimination against non-residents.</p>
<p><b>[Direct-to-Consumer Sales]</b> Addition of a consumer protection requirement that requires the option for a hearing aid fitting.</p> <p>*Note: Within the New Language, “hearing aid specialist” may be substituted with “licensed hearing aid provider” or similar verbiage to reflect which professionals are permitted to dispense hearing aids according to the</p>	<p>Any seller offering for sale or selling a hearing aid in this state or to a resident of this state must make available in this state an in-person fitting of the hearing aid by a hearing aid specialist licensed by this state prior to the sale.</p>	<p><b>Medium:</b> May be subject to challenge as violating the federal device preemption statute, but there is good support for the position that it is not preempted. Court decisions are in conflict (8th Circuit Court of Appeals and New Jersey Supreme Court hold presale testing requirement is preempted, while 5th Circuit Court of Appeals holds states</p>	<p><b>Low:</b> Should pass Dormant Commerce Clause, as it requires licensure for both in state and out-of-state sellers.</p>

**International Hearing Society**  
**Sample State Legislative Language Targeting Direct-to-Consumer Hearing Aid Sales and Personal Sound Amplifiers**

Objective	New Language	FDA Pre-emption Risk	Dormant Commerce Clause Risk
state law.		may require testing before sale) but FDA advisory opinions uphold the requirement of fitting and testing by a licensed individual before sale.	
<p><b>[Direct-to-Consumer Sales]</b>            Addition of a section that deals specifically with internet and mail order sales. This new section could be included in the licensing law or consumer protection law.</p> <p>*Note: This language is based upon California’s existing Catalog Sales law.</p>	<p>Internet Sales.            Hearing aids may be sold by internet, catalog, or direct mail provided that:</p> <p>(1) The seller is licensed as a hearing aid specialist in this state or other person licensed to fit and dispense hearing aids in this state;</p> <p>(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; and</p> <p>(3) The seller has received a statement which is signed by a physician, audiologist, or hearing aid specialist, licensed by this state, which verifies within the previous six months he/she a) has conducted a direct observation of the prospective hearing aid purchasers’ ear canals and b) if any of the Food and Drug Administration red flag 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 has, prior to fitting or selling a hearing aid to any individual, recommended to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear.</p> <p>(i) A copy of the statement referred to in paragraph (3) shall be retained by the seller for a period of seven years.</p> <p>(ii) A licensed hearing aid specialist who sells a hearing aid under this section shall not be required to conduct a direct observation of the purchaser's ear canals.</p>	<p><b>Medium</b>: May be subject to challenge as violating the federal device preemption statute, but there is good support for the position that it is not preempted. Court decisions are in conflict (8th Circuit Court of Appeals and New Jersey Supreme Court hold presale testing requirement is preempted, while 5th Circuit Court of Appeals holds states may require testing before sale) but FDA advisory opinions uphold the requirement of fitting and testing by a licensed individual before sale.</p>	<p><b>Low</b>: Should pass Dormant Commerce Clause, as it requires licensure for both in state and out-of-state sellers.</p>
<p><b>[Direct-to-Consumer Sales]</b>            Establish criteria for hearing testing and equipment within the state.</p>	<p>The following minimal procedures shall be performed as part of any hearing testing conducted for the purpose of fitting or dispensing a hearing aid, regardless of whether the person or</p>	<p><b>Medium</b>: Although it is based on an existing Florida statute, 484.0501, it would be at risk for</p>	<p><b>Low</b>: Does not appear to implicate any dormant commerce clause issues.</p>

**International Hearing Society**  
**Sample State Legislative Language Targeting Direct-to-Consumer Hearing Aid Sales and Personal Sound Amplifiers**

<b>Objective</b>	<b>New Language</b>	<b>FDA Pre-emption Risk</b>	<b>Dormant Commerce Clause Risk</b>
<p>Consider including within the Consumer Protection Act so the requirements are applicable to everyone, which is important in those states where physicians and/or audiologists are exempted from the hearing aid specialist licensure act; or if included in licensing act, include language that ensures exempted parties are subject to these requirements.</p>	<p>entity performing the procedures required under this section is also selling the hearing aid to the ultimate user.</p> <ol style="list-style-type: none"> <li>a. Visual inspection of the ear and ear canal.</li> <li>b. Pure tone air conduction testing at 250, 500, 1000, 2000, 4000 and 8000 Hz and bone conduction testing at 500, 1000, 2000 and 4000 Hz to determine type and degree of hearing loss.</li> <li>c. Effective masking when indicated.</li> <li>d. Appropriate testing to determine speech reception thresholds, speech discrimination scores, the most comfortable listening levels, uncomfortable loudness levels, and the selection of the best fitting arrangement for maximum hearing aid benefit when indicated.</li> </ol> <p>The following equipment shall be used as part of any hearing testing conducted for the purpose of fitting or dispensing a hearing aid:</p> <ol style="list-style-type: none"> <li>a. A audiometer that has been calibrated within the last 12 months and that meets the specifications of the American National Standards Institute (S3.6-1996) for diagnostic audiometers.</li> <li>b. A speech audiometer or a master hearing aid in order to determine the most comfortable listening level and speech discrimination.</li> <li>c. A final fitting ensuring physical fit and operational comfort of the hearing aid shall be made.</li> <li>d. Hearing testing must be performed in an environment with less than 55dBA ambient noise sound levels.</li> </ol>	<p>attack as preempted, because it deals with the mechanics of properly fitting the device to the patient, under the federal device preemption statute.</p>	
<p><b>[Direct-to-Consumer Sales]</b>            Addition of a section that requires all licensees have an in-state place of business to ensure that consumers have a location in which they can go to for assistance.            Encourage audiology board to adopt similar language if the licensing act is not combined.</p>	<p>Declaration of place of business; posting of license and notice. Each licensee shall declare and establish a regular place of business within the state, at which the licensee’s license shall be conspicuously displayed.</p>	<p><b>Low:</b> Should not be affected by pre-emption, as it deals with subjects not addressed by the federal regulations.</p>	<p><b>Medium:</b> Probably will be affected by the dormant Commerce Clause. The Supreme Court in <i>Granholm v. Heald</i>, 544 U.S. 460, 472, 125 S.Ct. 1885, 161 L.Ed.2d 796 (2005), has stated in several contexts that statutes that require an entity to maintain residency in the home state "in order to</p>

**International Hearing Society  
Sample State Legislative Language Targeting Direct-to-Consumer Hearing Aid Sales and Personal Sound Amplifiers**

<b>Objective</b>	<b>New Language</b>	<b>FDA Pre-emption Risk</b>	<b>Dormant Commerce Clause Risk</b>
			<p>compete on equal terms" with in-state businesses violate the Commerce Clause. Courts have reasoned that under a Commerce Clause analysis, the added burden of opening a new location in a particular state is a differential and discriminatory treatment of out-of-state interests. While there may be grounds to argue that the burden is justified by the state's concerns in patient welfare, etc., (for example, some states have upheld a requirement that a lawyer have an office in the state in which he is licensed and whose law the lawyer wishes to practice), there is a good chance such a requirement would be stuck down with respect to out-of-state sellers of hearing aids.</p>



**“DRAFT”**  
**FULL BOARD MEETING MINUTES**  
**April 20, 2012**

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

**Board Members Present**

Alison Grimes, Au.D., Vice Chairperson  
Sandra Danz, Hearing Aid Dispenser  
Deane Manning, Hearing Aid Dispenser  
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  
Yvonne Crawford, Staff

**Guests Present**

Cynthia Peffers, HHP CA  
Tricia Hunter, HHP CA  
Marcia Raggio, CSHA, SFSU  
Randy Sagar, HHP

**Board Members Not in Attendance**

Rodney Diaz, M.D.

**I. Call to Order**

Chairperson Grimes called the meeting to order at 9.12. a.m.

**II. Introductions**

Those present introduced themselves.

**III. Approval of Full Board Meeting Minutes of January 13, 2012**

The Board discussed minor edits to the meeting minutes of January 13, 2012.

**M/S/C: Manning/Danz**

**Abstention: Lee (Not present at the January 13, 2012 meeting)**

**IV. Hearing on Petition for Reinstatement of Revoked License- Heidi Lin Cordina, SP 11555**

The Board conducted the hearing on the petition for reinstatement of the revoked license for Heidi Lin Cordina.

**CLOSED SESSION**

The Board adjourned in closed session to deliberate the matter.

V. **Closed Session (pursuant to Government Code Section 11126 Subsection (c)(3)-  
Proposed Decisions/Stipulations/ Other APA Enforcement Actions  
-To Deliberate Petition for Reinstatement of the Revoked License of Heidi Lin Cordina**

The Board reconvened in open session.

VI. **Review Existing Licensing Laws on Hearing Aid Dispensing and Preemption Issues  
Under the Federal Drug Administration- Discussion of Provisions Regarding Mail  
Order and Catalog Sales of Hearing Aids (Business & Professions Code Section 2539.2)**

Ms. Del Mugnaio reported that at the January 13, 2012 Board meeting, the Board directed Ms. Yazigi to write a letter to the Federal Drug Administration (FDA) requesting an exemption of Business and Professions Code Section 2538.23 regarding regulating the sale of hearing aids through catalogue and mail order. The exemption would serve to provide California the authority to regulate the remote acquisition of hearing aids, such as, internet transactions.

The Board reviewed the draft FDA letter and suggested minor edits.

Ms. Yazigi explained the FDA's exemption requirements and stated that statistical data citing actual consumer protection issues would serve to best support the Board's position on the need to regulate the remote acquisition of hearing aids. She provides the history of the current statute and its intent when initially adopted.

**M/S/C: Danz/Murphy**

**The Board approved the amended FDA letter and directed Ms. Del Mugnaio to make the approved edits and send the letter to the FDA.**

Ms. Del Mugnaio stated that she and Ms. Yazigi crafted an email survey and sent the survey to other state regulatory boards' inquiring about how each state regulates the internet sale of hearing aids and whether the state has sought an exemption from the FDA regarding any aspect of hearing aid regulation, and further, whether the state has encountered any legal challenges with enforcing their laws and regulations governing hearing aid dispensing. Ms. Del Mugnaio reported that she received feedback from thirteen (13) states with only four (4) responding that the state regulates the sale of hearing aids over the internet, and only one state indicated that an exemption had been requested for its regulatory provisions.

VII. **Review Public Comments to Amendments to the Hearing Aid Dispenser's Advertising  
Regulations and Related Guidelines (California Code of Regulations Section 1399.127)**

Ms. Del Mugnaio reviewed the public comments received regarding the proposed changes to the hearing aid dispenser's advertising provisions. She stated that at the July 2012 Hearing Aid Dispensers Committee Meeting, the Committee may begin to decide which changes the full Board should consider as a formal regulatory amendment.

VIII. **Executive Officer's Report**

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

**A. Budget Update**



Ms. Del Mugnaio reported that, Cynthia Dines of the Department's Budget Office had presented information to the Board at the January 13, 2012 Board meeting regarding the current system of accounting for both revenue and expenditures of the speech-language pathology and audiology operations and that of hearing aid dispensers and dispensing audiologists. Ms. Del Mugnaio stated that the budget expenditure reports would remain separate for the purposes of tracking expenses, however, the Board's funding source was merged which meant that all revenue was deposited into one account.

Ms. Del Mugnaio reviewed the current expenditure projections for Month 8 with the Board.

## **B. Status of Proposed 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 Statement of Reasons is included in the packet for the Board review.

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

**The Board adopted the proposed language and Final Statement of Reasons for the Consumer Protection Enforcement Initiative regulations.**

### **2. Supervision Qualifications for Speech-Language Pathology Assistants (SLPA) & Required Professional Experience Temporary License Holders and SLPA Educational Program Changes (California Code of Regulations Section 1399.153, 1399.170, 1399.170.6, 1399.170.10, 1399.170.11, & 1399.170.15)**

The Board discussed the proposed amendments regarding changing the requirements for an individual to qualify as a supervisor for a temporary licensee completing the required professional experience. The amendments require the supervisor to have two years of full-time work experience as a licensed (or legally authorized) practitioner prior to taking on a supervisory role. The regulatory amendments also include changes to the SLPA provisions which were previously reviewed and approved by the Board at its January 13, 2012 Board meeting.

**M/S/C: Murphy/Martin**

**The Board adopted the proposed language for notice to the public.**

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

Ms. Del Mugnaio stated that the Board has approved the language at previous Board meetings, however, it was brought to her attention that the Board had not addressed continuing CE exemption criteria in terms of the length of time a qualifying event must be present in order for a licensee to qualify for a CE exemption. Ms. Del Mugnaio explained that in order for licensed speech-language pathologists or audiologists to qualify for an exemption from continuing professional development (CPD), the qualifying event must prohibit the licensee from participating in CPD for at least one-year, which is half the renewal cycle.

The Board discussed the issue and determined that in order for a licensed hearing aid dispenser to qualify for a CE exemption, the qualifying event must prohibit the licensee from participating in CE for at least six (6) months, or the one-year renewal cycle.

#### **C. Sunset Review Report- Project Management Plan**

Ms. Del Mugnaio reported that the Board would be required to submit a Sunset Review Report to the Legislature by November 1, 2012. She reviewed the report questionnaire with the Board and indicated that the staff will begin compiling statistics and writing the narrative related to operations, but that she will call on the Board members for input on the professional issues. Ms. Del Mugnaio stated that the Sunset Review Committee can discuss the professional issues that should be raised in the report and begin formulating the summary for each issue. She noted the Sunset Review Committee members as follows: Alison Grimes, Sandra Danz, Jaime Lee, and a vacant seat previously filled by Lisa O'Connor.

Chairperson Grimes invited Carol Murphy to join the Sunset Review Committee to replace Ms. O'Connor.

Ms. Murphy agreed.

Chairperson Grimes stated that the workload to complete the speech-language pathology and audiology professional issues portion of the report will be onerous for the two remaining professional members in those respective fields who are seated on the Board.

Ms. Del Mugnaio stated that she will schedule a Sunset Review Committee meeting in July 2012 to discuss the project completion plan and timeline.

#### **D. Administrative Updates: Occupational Analysis for Hearing Aid Dispensers Examination, BreEze, Personnel Changes**

Ms. Humphreys provided the administrative updates as follows:

- 2012 Hearing Aid Dispensers' Examination Validation Study and Occupational Analysis survey results- 18% response rate from Dispensing Audiologists; 22% response rate from Hearing Aid Dispensers= 20% overall response rate from the professions.
  - Every licensee who completed the survey will be awarded two (2) hours of continuing education credit to be applied toward the license renewal requirements.
  - The Office of Professional Examination Resources will analyze the survey response and enlist the expertise of subject matter experts to determine whether the current examinations for hearing aid licensure reflect the knowledge, skills, and abilities and entry-level licensee should possess.

- The next hearing aid dispensers' practical examination will be administered on April 21, 2012 in Sacramento. Fifty-nine (59) exam participants were registered to take the examination.
- BreEze system will be available to the Board in February 2013.
- Working on filling the Office Technician vacancy in the office. Hiring restrictions have made recruitment challenging.

**E. Project Plan for Reviewing the English Language International English Language Testing System (IELTS) Examination**

Ms. Del Mugnaio reported that she and Ms. Murphy are working with Kate McKeen of IELTS to schedule a standard setting study for the Board. She explained that the study would involve a group of Board-appointed subject matter experts who will review the IELTS examination to determine relevant and appropriate passing scores for the purpose of license eligibility. Ms. Del Mugnaio stated that Ms. Murphy and a group of subject matter experts are working with IELTS to schedule a time to sit for the examination in order to get a first-hand perspective on the examination content and administration.

**IX. Legislation Update**

**A. Senate Bill 1444 - Anderson – Assistive Devices: Warranty**

Ms. Del Mugnaio distributed amendments to SB 1444 to the Board and stated that the amendments are not yet in print but are being proposed by the Judiciary Committee. She reported that the bill was heard on April 16, 2012 in the Business, Professions, and Economic Development Committee where it had unanimous support. Ms. Del Mugnaio stated that the bill was intended to provide the Board with the authority to develop regulations that further specify the warranty and return provisions for hearing aids. She reported that she and Ms. Hunter of the Hearing Healthcare Providers of CA met with the author's office as well as legislative committee staff to discuss possible amendments to the bill, as legislative staff believed the language introduced was much too broad in scope. Ms. Del Mugnaio reported that committee staff raised the issue of the Board regulating express and implied warranty provisions which was contract law and clearly beyond the authority of the Board. She stated that she provided the committee staff with the Board's draft regulatory document which was intended to be a working document to provide interested parties a conceptual framework of the Board's proposal. Ms. Del Mugnaio reported that committee staff raised concerns about the proposed language which would authorize dispensers to retain a maximum dollar amount, associated with fitting and dispensing services, upon return of the hearing aid by the purchaser. She stated that the Board is on record as supporting SB 1444 to the extent that the bill provides clarity for both the consumer and the dispenser regarding the right of return and warranty provisions for hearing aids.

Ms. Hunter addressed the Board and stated that the Hearing Health Care Providers as the sponsor of the bill supports the Board's efforts, however, the bill was intended to be an omnibus non-controversial measure. She stated that should the bill encounter opposition from other interested parties where agreements can't be reached, the bill may be pulled.

Ms. Del Mugnaio stated that she will continue to work with committee staff and the author's office on the appropriate next steps and will update the Board as to the status of SB 1444 at the next meeting.

**B. Assembly Bill 1454- Solorio- Worker's Compensation: Audiologists**

Ms. Del Mugnaio stated that the California Academy of Audiology is sponsoring AB 1454 which would authorize an audiologist who holds a doctoral degree in audiology and has five (5) years of work experience to serve as a qualified medical evaluator within the workers' compensation system. She stated that the Board does not currently have a position on the bill as it appears to be more a professional issue than one of consumer protection.

The Board discussed the bill and agreed that it was not appropriate to take a position on AB 1454.

Ms. Del Mugnaio stated that she would continue to track the bill and provide information to the Board at the next meeting.

### **C. Other Legislation of Interest to the Board**

Ms. Del Mugnaio provided a list of bills that may impact the Department's boards and bureaus if passed:

- Assembly Bill 1588 – Atkins – Reservist Licensees: Fees and Continuing Education
- Assembly Bill 1904 – Block, Butler, Cook – Military Spouses: Expedite Licensure
- Assembly Bill 2570 – Hill – Licensees: Settlement Agreements

### **X. Discuss Proposed Statutory Language Establishing Unprofessional Conduct & Violations of Probation as Grounds for Discipline**

Ms. Del Mugnaio referenced proposed statutory language that would add a provision to Business and Professions Code Section 2533 regarding unprofessional conduct. This would include any violation of a term or condition of a probationary order, or of a license issued by the Board.

Ms. Yazigi explained that by adding the proposed language to the unprofessional conduct provisions, it strengthens the Board's disciplinary authority to either revoke or impose further restrictions on a licensee who either violates their probationary terms or is not in compliance with the conditions of a license issued by the Board.

**M/S/C: Murphy/Martin**

**The Board voted to adopt the proposed statutory change to Business and Professions Code Section 2533 and directed Ms. Del Mugnaio to pursue a legislative vehicle.**

### **XI. 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 proposed regulatory document which updates the Board's disciplinary guidelines (DGs) and incorporates the new uniform standards into the Board's regulations. She stated that the Board has reviewed the proposed document at previous meetings and approved the DGs which combine the guidelines for speech-language pathologists, audiologists, and hearing aid dispensers, however, the Board requested further guidance from legal counsel as to how to implement the new uniform standards given the legal challenges of identifying a licensee as a substance abusing licensee.

Ms. Yazigi addressed the Board and stated that there has been extensive discussion surrounding whether the adoption of the uniform standards by the board is permissive or mandatory. She stated that the

authority for the Board to promulgate regulations implementing the uniform standards is provided under Business and Professions Code Section 315 and that both the Legislative Counsel and the Government Law Section of the Office of the Attorney General have issued opinions concluding that the uniform standards are mandatory and should be implemented by healing arts boards without further modification. Ms. Yazigi provided a brief history of the development of the uniform standards and its legal challenges.

Ms. Del Mugnaio reviewed the proposed trigger language that may be used as a method to implement the uniform standards. She stated that the trigger language would require any licensee whose underlying violation deals with a controlled substance to be subject to a clinical diagnostic evaluation to determine whether the licensee is a substance abusing licensee and if diagnosed as such, the licensee would be subject to the uniform standards. Ms. Del Mugnaio stated that pursuant to the uniform standards, the licensee's license would be suspended pending the outcome of the clinical diagnostic evaluation.

Ms. Yazigi outlined the drug testing exceptions as included in the uniform standards. She commented that the standards are circular in that the licensee is subject to the uniform standards when the license is suspended and the clinical diagnostic evaluation is ordered even though the licensee has not yet been identified as a substance abusing licensee.

The Board discussed the restrictive nature of the standards and inquired whether the standards represent both minimum and maximum terms of discipline.

Ms. Yazigi stated that the uniform standards are a floor or a minimum and that the Board has discretion to impose more restrictive terms and conditions in cases where public harm is imminent. She also advised the Board that the uniform standards may be imposed on licensees who are not diagnosed as a substance abusing licensee if the nature of the violation or potential threat to the public warrants such restrictions.

Ms. Del Mugnaio impressed upon the Board the importance of adopting the new DGs as the existing DGs are outdated and do not provide the Board, Administrative Law Judges, the Office of the Attorney General, or opposing counsel with updated guideline that are reflective of current law and professional standards.

Ms. Yazigi stated that the Board has the option of pursuing the DGs as a separate regulatory proposal from the uniform standards if the Board is not prepared to adopt the uniform standards at this time. She commented that this is more work from a regulatory perspective, but it does provide the Board with the option of filing the amendments for the DGs now and updating its guidelines, absent the new uniform standards, until such time as the Board can decide how it will implement the new standards.

Ms. Hunter expressed her concern that the uniform standards are extremely punitive and the boards have no discretion to enforce appropriate terms for each individual case that comes before the board for consideration.

The Board discussed the uniform standards at length and the issues with the circular nature of the provisions.

Ms. Del Mugnaio offered to discuss the Board's concerns with the Department's Legal Office and inquire of other boards how their programs are dealing with such challenges.

The Board requested that Ms. Del Mugnaio report back to the Board regarding her discussions at the next Board meeting.

## **XII. Discussion Regarding Changes to the National Examination in Audiology and Speech-Language Pathology as Reported by the Educational Testing Service**

Ms. Del Mugnaio reported that she emailed the Educational Testing (ETS) Service on March 27, 2012, at the request of Chairperson Grimes, to obtain specific information regarding the changes to the national examination in audiology. Specifically, the Board was interested in learning how the new examination differs from the previous version and is seeking detailed information on the changes in the scoring methodology, and pass/fail statistics. Ms. Del Mugnaio stated that she has not received a response from ETS to date.

Chairperson Grimes directed Ms. Del Mugnaio to send a second request to ETS for the information.

## **XIII. Statistical Data on Licensing & Enforcement**

The Board reviewed the statistical data as provided by the staff.

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

There were no further public comments.

## **XV. Future Agenda Items- Discussion On Continued Competency Programs/ Audiology Aide Provisions**

Ms. Del Mugnaio stated that the issues of continued competency and audiology aide provisions will be placed on a future meeting agenda. She also stated that the issue of reimbursement by Medi-Cal for hearing aids has been a topic of discussion in the state based on a recent report issued by the Board of Equalization where a comparison of actual acquisition costs of hearing aids, verses consumer costs, were highlighted in an attempt to research cost savings to the state Medi-Cal program.

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

The Board reviewed the meeting calendar and rescheduled the July 2012 meeting to July 26-27, 2012 to be held in San Diego

## **XVII. Adjournment**

Chairperson Grimes adjourned the meeting at 2:46 p.m.

**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; Section 11500, Government Code; and Section 290, Penal 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~~ Sections 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

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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 fully licensed speech-language pathologist, or if in a setting or state that does not require licensure, holds legal authorization to provide independent services. 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 a fully licensed audiologist or if in a setting or state that does not require licensure, holds legal authorization to provide independent services. "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 as a fully licensed practitioner, or if in a setting or state that does not require licensure, holds legal authorization to provide independent 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.

(e) (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) ~~Fraudulently~~ 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.

Test Name: 0341 Audiology State/Agency/Institution: All Test Takers Administration Date Range: NOV- 2011 to MAY-2012 Variable: Total Duplicate Candidate: Highest Score							
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Administration Date	State/Agency/Institution	Total							
		N	# Passing	Percent Pass	10th Percentile	20th Percentile	30th Percentile	40th Percentile	
NOV-2011 to MAY-2012	All Test Takers	576			550.00	600.00	680.00	750.00	830.00

§ Data for Percent Passing are not available for All Test Takers.  
 Database was refreshed on: 05/30/2012 22:59:09 EST

Note: Pass Rates are shown on next worksheet.  
 First test administration was November 2011.

## Audiology (0341)

### Test at a Glance

Test Name	Audiology		
Test Code	0341		
Time	2 hours		
Number of Questions	120		
Format	Multiple-choice questions		
	Content Categories	Approximate Number of Questions	Approximate Percentage of Examination
	<ul style="list-style-type: none"> <li>I. Foundations</li> <li>II. Prevention and Identification</li> <li>III. Assessment</li> <li>IV. Intervention</li> <li>V. Professional Issues</li> </ul>	<ul style="list-style-type: none"> <li>12</li> <li>12</li> <li>48</li> <li>36</li> <li>12</li> </ul>	<ul style="list-style-type: none"> <li>10%</li> <li>10%</li> <li>40%</li> <li>30%</li> <li>10%</li> </ul>

## About This Test

The Audiology test measures knowledge important for independent practice as an audiologist in all primary employment settings including schools, hospitals, clinics, private practice, etc. The examination is typically taken by examinees who are in or who have completed a doctoral degree program that prepares individuals to enter professional practice. Recognized as the national examination in audiology, the test is one of several requirements for the Certificate of Clinical Competence issued by the American Speech-Language-Hearing Association (ASHA). Some states use the examination as part of the licensure procedure. Examinees may obtain complete information about certification or licensure from the authority or state or local agency from which certification or licensure is sought. (ASHA is at [www.asha.org](http://www.asha.org) and 2200 Research Boulevard, Rockville, MD 20852.)

The 120 multiple-choice test questions focus on content related to the major practice areas of prevention, identification, assessment and intervention, together with foundational knowledge and knowledge of standards of professional practice. Application of knowledge will be tested in the context of clinical case studies research results, and results of assessments (physiologic, behavioral and other types of assessment).

The content of the test is based on a practice and curriculum analysis commissioned by ASHA: a national survey of audiologists in both clinical and educational settings.

This test may contain some questions that will not count toward your score.



## Topics Covered

Representative descriptions of topics covered in each category are provided below.

### I. Foundations (10%)

- Acoustics/psychoacoustics
  - basic parameters of sound
  - principles of acoustics as related to speech sounds
  - sound measurement
  - psychoacoustic principles, methods, and applications
- Anatomy, physiology and behavior over the life span
  - the auditory system
  - the balance system
  - neuroanatomy and neurophysiology
  - embryology and development of hearing and balance mechanisms
  - normal processes of auditory behavior over the life span
  - language and speech characteristics and their development over the life span
  - effects of hearing loss on language and speech, and on educational, vocational, social and psychological functioning
- Etiology
  - genetics and associated syndromes related to hearing and balance
  - pathologies related to hearing and balance and their medical diagnosis and treatment
- Pharmacology, ototoxicity and vestibulotoxicity
- Psychometrics and Instrumentation
  - test construction principles
  - test reliability, and validity
  - calibration of audiometric equipment
- Principles of counseling
- Cultural and linguistic diversity, including Deaf Culture

### II. Prevention and Identification (10%)

#### Education and Prevention (Conservation)

- Informing clients about
  - causes and effects of hearing loss (congenital and acquired)
  - causes and effects of vestibular disorders
  - protection from hearing loss and vestibular disorders

- Universal precautions, including infection control and bioelectrical hazards
- Selecting and fitting hearing protection devices (HPDs)

#### Screening and Risk Assessment

- Selecting and administering procedures to identify individuals who require
  - further audiologic evaluation and/or treatment
  - referral for speech and/or language assessment
  - referral for other professional services
- Identifying individuals at risk for balance problems and falls who require further vestibular evaluation and/or treatment
- Newborn hearing screening programs (early hearing detection and intervention [EHDI])
- Selecting, administering, and interpreting self-report measures of hearing problems

### III. Assessment (40%)

#### Assessment Planning

- Gathering and evaluating client information (case histories and information from referral sources) to facilitate assessment planning and identify potential etiologic factors
- Verifying proper functioning of assessment equipment
- Selecting and modifying procedures based on client factors, e.g., age, developmental level, functional status, behavior, cultural and linguistic diversity, physical, sensory, and cognitive abilities

#### Audiologic Evaluation - Behavioral

- Pure-tone air and bone conduction testing
- Speech audiometry
- Tests for functional hearing loss
- Tests for children above 6 months developmental age, e.g., visual reinforcement audiometry and conditioned-play audiometry

### **Audiologic Evaluation - Physiologic**

- Immittance testing
  - tympanometry
  - acoustic reflex thresholds
  - reflex decay
  - otoacoustic emission (OAE) testing
- Auditory evoked potentials
  - Auditory brainstem response (ABR) testing
    - threshold testing with clicks
    - threshold testing with tone bursts
    - ABR bone conduction threshold testing
    - ABR for neurodiagnostic evaluation
  - Auditory steady state response (ASSR)

### **Other Assessments and Evaluations**

- Otoscopy: performing otoscopy and ensuring appropriate follow-up, including diagnostic evaluations, intervention, and referrals
- Self-report measures of hearing problems and their impact on daily living
- Balance system assessment, e.g.,
  - videonystagmography (VNG)
  - electronystagmography (ENG)
  - rotational tests
- Assessment of communication function, e.g.,
  - speech in noise testing
  - spatial testing
  - self-report measures
- Assessment of tinnitus, e.g.,
  - pitch matching
  - loudness matching
  - self-report measures
- Evaluating (central) auditory processes, e.g.,
  - gap detection
  - dichotic digits
  - filtered speech

### **Integrating Assessment Results**

- Integrating assessments (behavioral, physiologic, neurodiagnostic, and other evaluations)
  - to establish type and severity of hearing loss
  - to support recommendations for further evaluation and/or referral
- Integrating balance function tests (e.g., VNG) with other results to evaluate balance function

### **Documentation and Communication**

- Documenting the procedures and results of evaluations
- Generating recommendations based on evaluations, including referrals, as appropriate, to other audiologists and related professionals
- Communicating results and recommendations to relevant individuals (e.g., clients, caregivers, physicians, agencies) to coordinate a plan of action
- Interacting effectively with clients, families, other appropriate individuals, and professionals including working with interpreters (ASL and other languages, sign systems) to effectively communicate with clients

## **IV. Intervention (30%)**

### **Treatment Planning**

- Evaluating client information to facilitate treatment planning:
  - information from referral sources
  - case histories
- Selecting and modifying treatment procedures based on client factors, e.g., age, developmental level, functional status, behavior, cultural and linguistic diversity, physical, sensory, and cognitive abilities
- Integrating results of assessments and other evaluations to support recommendations for treatment and/or referral

### **Device Selection**

- Evaluating client's perceived hearing handicap and expectations related to hearing devices
- Determining candidacy for and selecting:
  - hearing aids
  - other assistive listening and alerting devices
  - cochlear implant(s)
  - other implantable devices (e.g., bone-anchored hearing aids)
- Determining candidacy for and selecting:
  - hearing assistive technology system (HATS) for adults, e.g., personal and group amplification systems, assistive listening and alerting devices
  - hearing assistive technology system (HATS) for children

### **Hearing Aids**

- Evaluating, for the purpose of hearing aid selection,
  - speech recognition in noise
  - loudness discomfort
- Programming hearing aids
- Hearing aid coupling, e.g., ear mold modifications, sound bore length, materials
- Selecting features and processing strategies based on client communication needs, e.g.,
  - type of amplitude processing
  - feedback suppression
  - direct audio input

### **Cochlear Implants**

- Programming cochlear implants
- Evaluating implant effectiveness and making appropriate modifications
- Selecting processing and programming strategies based on client communication needs

### **Device Verification and Validation**

- Verifying proper functioning of hearing aids and other assistive devices
- Conducting quality control measures (e.g., electroacoustic measures, feature-specific probe microphone measure) on hearing technology
- Probe microphone verification for children, e.g.,
  - real ear coupler difference (RECD)
  - aided thresholds
- Probe microphone verification for adults, e.g.,
  - real ear insertion gain (REIG)
  - real ear aided response (REAR)
  - real ear saturation response (RESR)
- Evaluating hearing technology effectiveness, e.g., outcome measures, aided speech recognition
- Repairing and modifying hearing technology devices, when appropriate

### **Audiologic (Re)habilitation/Intervention**

- Evaluating and modifying audiologic (re)habilitation, including therapy schedule, discharge criteria, frequency, duration, and type of service
- Teaching communication strategies to clients and their significant others, e.g.,
  - speech reading
  - conversational repair strategies

- Facilitating communication development and/or auditory learning (listening, speech, expressive and receptive language)
- Providing support for school-age children, e.g.,
  - counseling
  - addressing the acoustic environment
  - consulting with educational personnel
  - providing direct therapy

### **Tinnitus Management**

- Counseling, and sound management intervention (e.g., environmental sound sources, ear level sound generators) and follow-up

### **Vestibular Rehabilitation**

- Treatment for benign paroxysmal positional vertigo (BPPV)

### **Counseling**

- Counseling related to device use and safety
- Counseling children's caregivers about hearing loss, communication development and modes of communication
- Providing individual, family, and group counseling related to hearing loss and subsequent communication and areas of psychosocial, behavioral, vocational, and educational adjustment
- Making referrals, as appropriate, to other audiologists and related professionals

### **Documentation and Communication**

- Documentation of intervention processes and results
- Generating recommendations resulting from intervention processes
- Communication of recommendations to relevant individuals (e.g., clients, caregivers, physicians, agencies) to coordinate a plan of action
- Interacting effectively with clients, families, other appropriate individuals, and professionals including working with interpreters (ASL and other languages, sign systems) to effectively communicate with clients about treatment

## V. Professional Issues (10%)

### Professional Practice

- Different service delivery models in health care and school-based settings
- Management and business practices, e.g.,
  - coding and reimbursement
  - case management
- Effective and appropriate communication of results, recommendations, and intervention status
  - selecting the means of communication, e.g., formal reports, notes, e-mails, phone calls
  - using language appropriate for the recipient
  - maintaining client/patient privacy
- Equipment calibration and maintenance to standards and manufacturer's specifications

### Legal and Ethical Practice and Advocacy

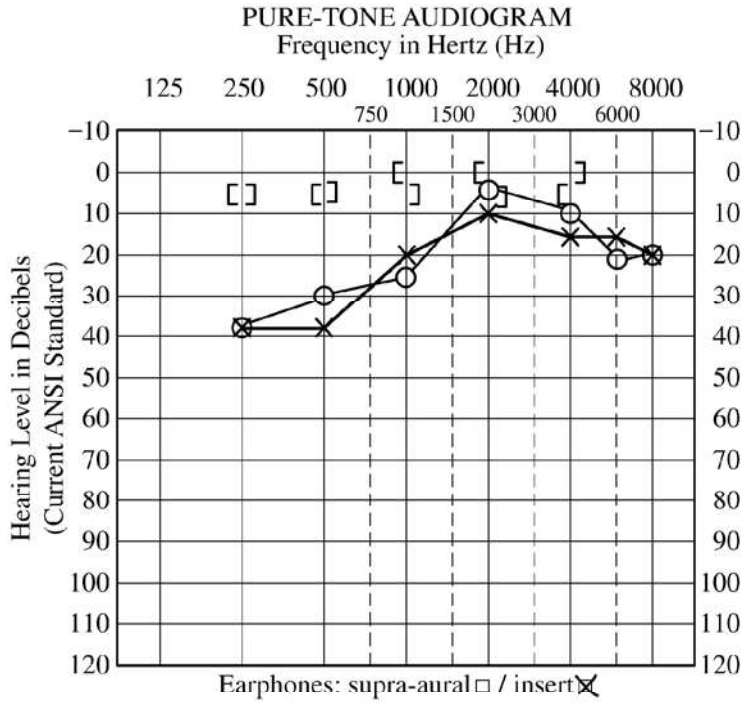
- Standards for professional conduct
- Protection of clients'/patients' rights
- Legislative, and regulatory mandates
- Advocacy for appropriate services
  - underserved populations
  - inclusion of services in individualized education programs (IEPs)
  - insurance appeals

### Evidence-Based Practice

- Application of research findings to maintain currency in care
- Research principles and practices, e.g., experimental design, statistical methods, and application to clinical populations

## Sample Test Questions

The sample questions that follow illustrate the kinds of questions in the test. They are not, however, representative of the entire scope of the test in either content or difficulty. Answers with explanations follow the questions.



KEY:

Right	Stimulus	Left
○	Air	×
<	Bone	>
△	Masked Air	□
[	Masked Bone	]
∨	No Response	∨
Sound Field: S		

### SPEECH AUDIOMETRY

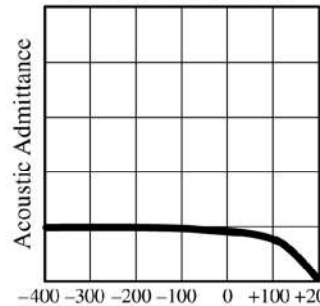
	PTA (dB HL)	SRT SAT (dB HL)	Word / Sentence Recognition	Word / Sentence Recognition	MCL (dB HL)	UCL (dB HL)
Right	20	15	%	dB HL	%	dB HL
mskg						
Left	22	15	%	dB HL	%	dB HL
mskg						
MLV	Recorded	TEST MATERIAL:				
<input type="checkbox"/>	<input type="checkbox"/>					

### TYMPANOMETRY

226 678 / 1000 Hz (circle one)

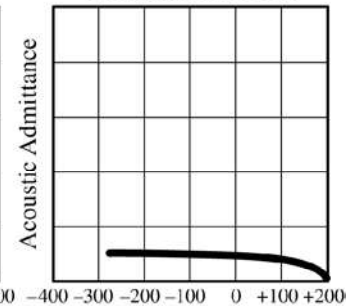
	Right	Left
Peak-Compensated Static Admittance (mmho)	∅	∅
Tympanometric Peak Pressure (daPa)	no peak	no peak
Tympanometric Width (daPa)	0.48	0.4
Equivalent Ear Canal Volume (cm <sup>3</sup> )	N/A	N/A

### TYMPANOGRAM



Right  
Ear Canal Pressure (daPa)

### TYMPANOGRAM



Left  
Ear Canal Pressure (daPa)

### ACOUSTIC REFLEX

	Stimulus Right	500	1K	2K
IPSI CONTRA	Threshold (dB HL)	Absent	→	→
	Decay (pos/neg)			
	Threshold (dB HL)	Absent	→	→
	Decay (pos/neg)			

### ACOUSTIC REFLEX

	Stimulus Left	500	1K	2K
IPSI CONTRA	Threshold (dB HL)	Absent	→	→
	Decay (pos/neg)			
	Threshold (dB HL)	Absent	→	→
	Decay (pos/neg)			

Directions: Each of the questions or incomplete statements that follow are followed by five suggested answers or completions. Select the one that is best in each case.

**Questions 1–4 are based on the following case.**

Kim is a 6-year-old girl whose parents brought her to the audiology clinic because she has been having academic trouble in school. According to her classroom teacher, Kim has difficulty following directions. She appears to stare blankly when the teacher is speaking to the class and never answers questions. Kim reportedly has had three sinus infections in the past eight months that have been treated by her pediatrician. She is scheduled to see an allergist next month.

Audiometric data for Kim is shown on the data sheet on page 6.

1. Based on the audiometric and case history information provided here, which of the following is the most likely etiology for Kim's hearing loss?
  - (A) otosclerosis
  - (B) chronic otitis media
  - (C) bilateral atresia
  - (D) impacted cerumen
  - (E) perforated tympanic membrane
2. Which of the following scores are mostly likely to be obtained if word recognition is assessed using an age appropriate test at 40 dB SL?
  - (A) 70% right ear, 66% left ear
  - (B) 60% right ear, 80% left ear
  - (C) 80% right ear, 72% left ear
  - (D) 88% right ear, 90% left ear
  - (E) 100% right ear, 70% left ear
3. To accommodate Kim's needs, the audiologist would most appropriately recommend which of the following?
  - (A) Binaural bone-anchored hearing aids
  - (B) A mild gain hearing aid for use in the classroom
  - (C) Individual tutoring outside the classroom for 3 hours/day
  - (D) Referral to an otolaryngologist for a cochlear implant evaluation
  - (E) Preferential classroom seating and regular monitoring of middle ear status
4. According to IDEA, the audiologist's recommendations for this child should be addressed in which of the following documents?
  - (A) Individualized Family Service Plan
  - (B) Individualized Education Program
  - (C) Report Card
  - (D) Behavioral Intervention Plan
  - (E) Cumulative academic record

5. A six-month-old child born with bilateral bony atresia is seen for an audiological evaluation and treatment recommendation. Radiological evidence indicates the probable presence of an intact middle ear and cochlea. ABR responses have been obtained at near-normal levels to bone-conducted signals. Of the following, the most appropriate course of action for this child at this time would be to
- defer treatment until growth of the external and middle ear is complete at about age 6
  - suggest that surgery be initiated on at least one ear to permit a normal air-conducted pathway
  - recommend an implanted bone-anchored hearing aid
  - investigate the use of a bone-conduction hearing aid until audiological test results can be confirmed and surgery initiated when the child is older
  - counsel the parents concerning sign language and initiate a treatment program based on the use of all visual cues
6. Which of the following statements about a caloric response yielding a left unilateral weakness in the interpretation of electronystagmography results is most accurate?
- It suggests a right peripheral vestibular disorder of the labyrinth.
  - It is of no real value in the interpretation.
  - It suggests a nonspecific (nonlocalizing) vestibular disorder.
  - It suggests a left peripheral vestibular disorder of either the labyrinthine or the VIIIth nerve.
  - It suggests a central vestibular disorder.
7. The accuracy of a hearing screening test in correctly identifying those individuals who actually have a hearing disorder is referred to as the screening test's
- reliability
  - validity
  - precision
  - specificity
  - sensitivity
8. Carol is a 34-year-old woman with a sudden-onset, left-sided facial paralysis that has been diagnosed as Bell's palsy. Acoustic reflexes are present at normal levels bilaterally for both ipsilateral and contralateral stimulation. Which of the following statements accurately applies to this situation?
- The pathology is proximal to the stapedial branch of the VII<sup>th</sup> nerve.
  - The pathology is distal to the stapedial branch of the VII<sup>th</sup> nerve.
  - The patient has a left acoustic neuroma.
  - The facial paralysis is probably nonorganic in nature.
  - No reliable statement can be made about VIIIth nerve function, since the responses could be due to V<sup>th</sup> nerve activity.
9. Of the following, the most likely adult candidate for a cochlear implant is one with a
- bilateral hearing loss due to chronic otitis media
  - bilateral hearing loss due to noise exposure
  - bilateral hearing loss due to adult meningitis
  - unilateral hearing loss of sudden onset and unknown etiology
  - unilateral hearing loss secondary to surgery for vestibular schwannoma
10. According to PL 99-457, a child under 2 years of age who has a hearing impairment must
- be fitted with binaural hearing aids
  - have biannual hearing evaluations
  - be enrolled in a center-based habilitation program
  - have a written individualized family service plan
  - be provided with total communication training
11. Which of the following is typically the best choice of amplification for a person with bilateral moderate conductive hearing loss and chronic drainage from both ears?
- Behind-the-ear aids with vented earmolds
  - A body-worn hearing aid
  - A vibrotactile aid
  - A bone-conduction hearing aid
  - A multichannel cochlear implant

12. In the measurement of real-ear sound-pressure levels with a probe-tube microphone system, insufficient probe-tube depth will tend to
- (A) increase the high-frequency response
  - (B) decrease the high-frequency response
  - (C) decrease the response at all frequencies
  - (D) decrease the low-frequency response
  - (E) increase the low-frequency response
13. The measurement of distortion product otoacoustic emission (DPOAE) involves the presentation of pairs of pure tones to the patient's ear. Which auditory response does this test measure?"
- (A) Cubic difference tone
  - (B) Summation tone
  - (C) First and second harmonics
  - (D) Resonance in outer hair cells
  - (E) Resonance in inner hair cells
14. A client with a history of bilateral profound sensorineural hearing loss, lack of vestibular function, and progressive retinal deterioration is scheduled for an audiological assessment.
- Which etiology is consistent with the client's history?
- (A) Auditory neuropathy
  - (B) Vestibular schwannomas
  - (C) Neurofibromatosis
  - (D) Usher's syndrome
  - (E) Meningitis
15. The area of the ear canal where most cerumen is generated is
- (A) at the isthmus
  - (B) at the eardrum
  - (C) the bony portion
  - (D) the middle third of the canal
  - (E) the outer third of the canal
16. A child comes to the clinic due to problems understanding the teacher at school. The child has a moderate hearing loss and wears bilateral hearing aids. Aided speech-recognition scores at 55 dB HL in quiet were 88 percent correct, with scores being 60 percent correct with a +5 SNR. Which of the following would be the best recommendation for the child?
- (A) Increase the gain of the hearing aid
  - (B) Utilize directional microphones with the hearing aids
  - (C) Utilize a personal frequency modulation (FM) system with the hearing aids
  - (D) Utilize a low-gain frequency modulation (FM) system with headphones
  - (E) Refer for a cochlear implant evaluation
17. Known types of presbycusis can be attributed to each of the following EXCEPT
- (A) degeneration of sensory hair cells
  - (B) degeneration of auditory neurons
  - (C) degeneration of the stria vascularis
  - (D) degeneration of the ossicular joint
  - (E) structural changes in the basilar membrane



18. Which of the following best identifies the appropriate tools to screen for newborn hearing loss in accordance with the Joint Committee on Infant Hearing guidelines?
- | In the well-baby nursery | In the neonatal intensive care unit |
|--------------------------|-------------------------------------|
| (A) ABR                  | OAE                                 |
| (B) OAE                  | OAE and ABR                         |
| (C) OAE and ABR          | ABR                                 |
| (D) OAE, ABR, and ASSR   | OAE and ABR                         |
| (E) ABR                  | ABR and ASSR                        |
19. In 2002, the American National Standards Institute (ANSI) adopted guidelines for classroom acoustics, intended for use in the design of new classrooms and in the renovation of existing classrooms. The ANSI-recommended average noise levels and reverberation times for unoccupied classrooms are
- (A) 15 dBA or less and 0.2 seconds or less
  - (B) 25 dBA or less and 2.0 seconds or less
  - (C) 35 dBA or less and 0.6 seconds or less
  - (D) 45 dBA or less and 2.0 seconds or less
  - (E) 55 dBA or less and 0.2 seconds or less

## Answers

**1.** The correct answer is (B). According to the case history provided, the patient is a 6-year-old child who has experienced recurrent sinus infections and likely has allergies. Together with the audiometric data that reveal a bilateral hearing loss with air-bone gaps, flat tympanograms and absent acoustic reflexes suggest a conductive hearing loss. The flat tympanograms rule out the possibility of otosclerosis. The degree of hearing loss and the fact that tympanograms were obtained indicate that atresia is not present. The degree of hearing loss cannot be accounted for by impacted cerumen. The equivalent ear canal volume is too small to be associated with eardrum perforation. Thus, the only answer that fits with all of the audiometric results and the history is chronic otitis media (B).

**2.** The correct answer is (D). The pure-tone air and bone conduction thresholds together with the immittance results indicate that this 6-year-old child has a purely conductive, bilateral hearing loss. Thus, it is expected that once speech is clearly audible to the child, word recognition ability will be good to excellent bilaterally. The only reasonable choice of word recognition scores is therefore 88% right ear, 90% left ear (D). All of the other choices include scores that are much too poor either unilaterally or bilaterally.

**3.** The correct answer is (E). Because the history and audiometric results indicate bilateral otitis media, which can be treated medically, a bone-anchored hearing aid is not a reasonable choice for remediation. Likewise, a mild-gain hearing aid for classroom use is not warranted unless it is determined that medical treatment does not improve auditory acuity. While tutoring may be beneficial if the child is having a problem with a specific subject, Kim should remain in the classroom for as much of the school day as possible. Thus, taking her out of class for three hours a day is not feasible. Providing her with preferential seating and monitoring her middle-ear status is clearly the most appropriate remediation strategy for the educational audiologist to recommend for Kim.

**4.** The correct answer is (B). All children with documented hearing loss must be followed by the school, and the specific recommendations for each child must be described in an Individualized Education Program. An Individualized Family Service Plan, (A), is required for children 0 to 3 years of age. Under IDEA, report cards are not required to indicate an audiologist's recommendations. The case study does not indicate that Kim has behavioral problems, so a behavioral intervention plan is not correct. A child's cumulative record does not reflect any related service recommendation.

**5.** The correct answer is (D). The evaluation shows that the middle ear and the cochlea are probably intact and that a surgeon has only to open the occluded canals for hearing to be made functional. However, to perform surgery on a six-month-old child without having more information about hearing competence would be unwarranted. Because bilateral atresia often can be handled through a bone-conduction hearing aid, such a device should be tried first and the child's growth and development monitored to determine when surgery should take place.

**6.** The correct answer is (D). A unilateral weakness indicates a disorder of the labyrinth or the VIII<sup>th</sup> nerve on the same side as the weakness. Thus, in this case the disorder is indicated on the left, not the right, side: (D) is the correct answer and (A) is incorrect. The finding is of great value, since it has determined that a unilateral peripheral problem exists, so (B) is incorrect. (C) is incorrect because the disorder is localized to the periphery. (E) is incorrect because a central disorder is ruled out by these results.

**7.** The correct answer is (E). The question gives a definition of test sensitivity. (A) is incorrect because not all sensitive tests have reliability (the ability of the test to show consistent results for the same subject under different conditions). Validity is the ability of a test to measure what it is designed to measure; a test can be sensitive without being valid if there are too many false-positives, so (B) is incorrect. (C) is incorrect because a test can correctly identify individuals with hearing disorders without identifying the subjects' precise thresholds. Specificity refers to how accurately the test identifies those individuals who do not have a hearing loss, so (D) is incorrect.

**8.** The correct answer is (B). The acoustic reflex measurement helps to determine the site of lesion of facial nerve disorder as either distal or proximal to the stapedial branch of the VII<sup>th</sup> nerve. If the acoustic reflex is present at normal HTL's, the localization of pathology is likely distal to the stapedius branch of the nerve.

**9.** The correct answer is (C). Cochlear implants are typically recommended for individuals with profound or severe-to-profound bilateral sensorineural hearing losses; adult meningitis is likely to cause such hearing loss. (A) and (B) are incorrect because individuals with hearing losses due to noise exposure or chronic otitis media are likely to benefit from amplification; hearing losses with those etiologies tend to be less than profound. Unilateral hearing losses generally do not require intervention as drastic as a cochlear implant, so (D) and (E) are incorrect. Furthermore, (E) is incorrect because successful use of a cochlear implant requires an intact auditory nerve (VIII<sup>th</sup> nerve) and surgery for vestibular schwannoma usually destroys this nerve.

**10.** The correct answer is (D). P.L. 99-457 specifies that a plan be developed, but does not specify the type of services to be delivered. All other answer choices specify particular types of services.

**11.** The correct answer is (D). A bone-conduction hearing aid can boost the bone-conduction signal and provide enough amplification to be helpful to clients with moderate hearing loss, and the hearing aid will not interfere with the drainage of the ear. Hearing aids with earmolds are unsuitable for clients with chronic drainage because the drainage would damage the earmold and the additional blockage of the external canal would exacerbate the drainage problem and increase the likelihood of infection; thus (A) is incorrect. Body-worn hearing aids are coupled to earmolds and may provide more power than is necessary for people with only moderate hearing loss, so (B) is incorrect. Vibrotactile aids and cochlear implants are useful only for clients with profound hearing losses who cannot benefit from amplification, so (C) and (E) are incorrect.

**12.** The correct answer is (B). Probe tubes for measuring real-ear sound-pressure levels (SPL) should be inserted as close to the tympanic membrane as possible, since it is the SPL at the tympanic membrane that is being measured. If the probe tube is too far from the tympanic membrane, high-frequency sound waves bounced off the eardrum will dissipate before reaching the probe, but low-frequency sound waves, which do not dissipate as easily, will be essentially unaffected. The overall effect will thus be a decrease only in the high-frequency response.

**13.** The correct answer is (A). As noted in the question, a pair of tones is presented via an earphone in the measurement of DPOAE's. Because the normal auditory system is nonlinear, when two primary tones are introduced into the ear, distortion products are produced. The largest distortion product, and the one recorded in the evaluation of DPOAE's, is the cubic difference tone. A summation tone may occur and harmonics may occur, but they will be very small, definitely not large enough to be measured. Hair cells do not resonate, so the other answers are not possible.

**14.** The correct answer is (D). Approximately 40 percent of patients with Usher's syndrome show a profound hearing loss with vestibular dysfunction and an early onset of retinitis pigmentosa (RP), a progressive degeneration of the retina that leads to loss of night vision, restriction of visual fields, and, ultimately, blindness. (A), (B), (C), and (E) are incorrect because the etiologies are not associated with progressive visual deterioration.

**15.** The correct answer is (E). Cerumen is created by a combination of secretions of sweat glands and sebum glands, which are located in the cartilaginous outer third of the ear canal.

**16.** The correct answer is (C). Using an FM system provides the most benefit in improving signal-to-noise ratio, so (C) would be the most appropriate recommendation for a child who has difficulty understanding speech in noise. As such, (A) and (B) would not be the most appropriate answer. A low-gain FM system would not be appropriate considering the moderate hearing loss and the use of hearing aids. Since the child does not have a severe to profound hearing loss, (E) would not be an appropriate answer because cochlear implants are for patients with severe to profound hearing loss.

**17.** The correct answer is (D). The ossicular joint is not involved in presbycusis. (A), (B), (C), and (E) are the causes of four identified types of presbycusis: (A) causes sensory presbycusis, (B) causes neural presbycusis, (C) causes strial presbycusis, and (E) causes cochlear conductive presbycusis.

**18.** The correct answer is (C). The guidelines clearly indicate that ABR is the screening tool to be used in the neo-natal intensive care unit (NICU). For an infant in the well-baby nursery, OAE can be used for screening, but ABR could also be used. (D) and (E) are incorrect because ASSR is not a recommended screening tool. (A) and (B) are incorrect because OAE is not recommended for use in the NICU.

**19.** The correct answer is (C) because it captures the recommendations for any core learning space with an enclosed volume below 10,000 cubic feet. By the ANSI guidelines, the classroom acoustics indicated by (D) and (E) would exceed the recommended noise levels for an unoccupied classroom, while the noise levels indicated by (A) and (B) are stricter than the recommendations, which were designed for practical application in school settings. The acoustics indicated by (B) and (D) would allow reverberation times that exceed the recommendations for classrooms.



Frequency Distribution for all test takers – Audiology 0341 – November 2011 – May 2012

Score	Count	Percent	Cumulative Percent
980	0	0.00	100.00
960	0	0.00	100.00
940	3	0.52	99.65
920	1	0.17	99.13
900	0	0.00	98.26
880	6	1.04	96.70
860	10	1.74	95.66
840	6	1.04	92.88
820	5	0.87	89.24
800	0	0.00	84.90
780	17	2.95	81.94
760	15	2.60	78.99
740	0	0.00	71.35
720	20	3.47	67.53
		1.04	64.06
700	25	4.34	63.02
690	24	4.17	58.68
680	31	5.38	54.51
670	0	0.00	49.13
660	32	5.56	49.13
650	25	4.34	43.58
640	0	0.00	39.24
630	29	5.03	39.24
620	20	3.47	34.20
610	0	0.00	30.73
600	44	7.64	30.73
590	21	3.65	23.09
580	22	3.82	19.44
570	12	2.08	15.63
560	15	2.60	13.54
550	9	1.56	10.94

Frequency Distribution for all test takers – Audiology 0341 – November 2011 – May 2012

520	4	0.69	7.12
500	11	1.91	5.21
480	4	0.69	2.78
460	2	0.35	1.91
440	0	0.00	1.04
420	0	0.00	0.69
		0.52	0.69
400	0	0.00	0.17
390	1	0.17	0.17
380	0	0.00	0.00
370	0	0.00	0.00
360	0	0.00	0.00
350	0	0.00	0.00
340	0	0.00	0.00
330	0	0.00	0.00
320	0	0.00	0.00
310	0	0.00	0.00
300	0	0.00	0.00
290	0	0.00	0.00
280	0	0.00	0.00
270	0	0.00	0.00
260	0	0.00	0.00
250	0	0.00	0.00

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**From:** Pruner, Kathy <kpruner@ETS.ORG>  
**Sent:** Thursday, May 31, 2012 1:52 PM  
**To:** DelMugnaio, Annemarie@DCA  
**Subject:** RE: New Audiology Test 0341- 2nd Request for Information  
**Attachments:** Audiology TAAG final 0341.pdf; Frequency Distribution w Percentiles 112011-052012.docx; AUD 0341 Perform and Pass Rates.xlsx

Dear Annemarie,

I am sorry for the delayed response. I am the person who would send this information. Please know that I had sent a request to our assessment director who oversaw the test changes for the comparison text and it must have slipped his mind until I reminded him last week. I did receive an answer on Friday which I am pasting below.

Comparison of the two versions of the Audiology test:

The regenerated Praxis Audiology (0341) has changes compared to the previous test (number 0340) that reflect changes in the field, especially changes in technology and the availability of technologies. These changes were validated through an ASHA practice and curriculum analysis that included a national survey of the field (both clinicians and faculty of audiology programs)

In terms of overall weighting, the regenerated test shifts puts more emphasis on practice and application over foundational knowledge (e.g., acoustics) with 80% of the test in the categories of *Prevention* (10%), *Assessment* (40%) and *Intervention* (30%), up from 64% in the parallel categories in 0340.

The larger category of *Assessment* allows for stronger coverage of both the different kinds of physiological assessment and behavioral assessment practices appropriate for a range of patients.

The new test also continues an evolution in Praxis Audiology to include more test questions embedded in case studies of audiologic patients, with test takers called to interpret authentic audiometric data sheets and to integrate data from multiple assessments to make a judgment.

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Additionally, the test is now intended for candidates with advanced training. Whereas the previous test stated that is typically taken by examinees who are in or who completed a master's or doctoral degree program, the new test is now geared for candidates who are in or who have completed a doctoral degree program only.

**Scoring Methodology:** The scoring methodology for the new Audiology test has not changed from the old test. Test questions are worth 1 point each and are equally weighted. The raw scores are then converted to the scaled score (currently 250-990, and 100-200 starting January 2013) through a mathematics transformation moving from the raw score performance to the scaled score range.

**Scoring Percentiles:** I am not sure of what you are asking here. We do not do score percentiles as is done for other tests such as GRE or TOEFL. Within our ETS Data Manager tool, you can run a frequency distribution and it shows the percentiles by each score point. I have attached the results for this.

**Pass/Fail Statistics:** I have also attached a spreadsheet for additional data on the percent passing for national test takers. See both worksheet tabs.

Do you have an account with our ETS Data Manager so that you can access data on the this test and the SLP test? If not and you would like it, please send in the form at this link: <https://tlcs.ets.org/clientservices/profile/login/login.do>

Again, I apologize for the delay in sending this information. I hope it is sufficient for your needs. If not, please let me know.

Kind regards,  
Kathy

**Kathy R. Pruner**  
**Client Relations Director**  
**Teacher Licensure and Certification**  
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**Rosedale Rd.**  
**Princeton, NJ 08541**  
**kpruner@ets.org**  
**Office: 609-683-2694**  
**Cell: 215-378-3340**

*"We will be known forever by the tracks we leave."  
Native American Dakota Proverb*

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**From:** DelMugnaio, Annemarie@DCA [<mailto:Annemarie.DelMugnaio@dca.ca.gov>]  
**Sent:** Wednesday, May 30, 2012 7:03 PM  
**To:** Pruner, Kathy  
**Subject:** FW: New Audiology Test 0341- 2nd Request for Information

Hello Kathy-

I am following up on the email below as I have not received a response from ETS regarding the California Board's questions of the new Audiology Examination. Please notify me if the email should be directed to another staff member of program area within ETS.

Thank you.

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

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**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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**PART 2.**

**HEARING AID DISPENSERS BUREAU**

**BUREAU'S RESPONSE TO ISSUES IDENTIFIED  
AND FORMER RECOMMENDATIONS MADE BY THE  
JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE (JOINT COMMITTEE)**

***ISSUE #1. Should the licensing of hearing aid dispensers be continued?***

*JOINT COMMITTEE Recommendation: Both the Department and Committee staff recommended that the licensing and regulation of hearing aid dispensers by the State of California be continued.*

*JOINT COMMITTEE Vote: The Joint Committee adopted the recommendation of the Department and Committee staff by a vote of 6-0.*

*JOINT COMMITTEE Comment: Consumers of hearing aid dispenser services are often extremely vulnerable; the majority are elderly, may have limited financial resources, and may suffer from debilitating illnesses. Other consumers are children who need proper hearing aid fitting. Fitting clients has potential for physical harm. In particular, taking an impression of the ear canal to make the hearing aid is an invasive procedure, which, if improperly done, could cause severe pain, and increase hearing loss. Consumers can also suffer great financial harm. Technological advances have increased the effectiveness of hearing aids dramatically – and also have increased costs. Hearing device costs range from \$800 to \$3,400 (costs double if two hearing aids are required).*

*There are no federal mandates for states to license or otherwise regulate hearing aid dispensers. However, all states except Massachusetts regulate hearing aid dispensers. B&P Code, Section 3351 exempts from licensure those engaged in the practice for a governmental agency, private clinic, institution of higher education, or a public nonprofit organization. Licensed physicians and surgeons, audiologists, and individuals supervised by audiologists who do not directly or indirectly engage in the sale of hearing aids are also exempted from the licensing act (Section 3351.3).*

*There is significant amount of regulatory overlap for hearing aid dispensers. Approximately 40% of the 1,457 licensed hearing aid dispensers are also licensed as audiologists by the Speech-Language Pathology and Audiology Board (there are 1,238 audiologists). Dispensers perform only those hearing tests required for the purpose of fitting and selling hearing aids, and are prohibited from conducting diagnostic testing.*

**2006 Bureau Response:** The Bureau concurs with the Joint Committee recommendation and comments. Ensuring that hearing aid dispensers have at least a base level of competency, are monitored, and consumers are provided recourse when appropriate is important for the public good.

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**ISSUE #2. Should the Bureau (formerly HADEC) continue its efforts to strengthen the education requirements for hearing aid dispenser licensing applicants, including encouraging the development of educational programs in the state's community colleges, which would provide applicants with the required knowledge and competency to become licensed dispensers?**

JLRSC Recommendation: Both the Department and Committee staff recommended that the HADEC make recommendations regarding increasing the educational requirements to become licensed as a hearing aid dispenser, with input from the professional associations representing hearing aid dispensers and audiologists, licensees, public representatives, and the Department of Consumer Affairs. It was also recommended that the Bureau take steps to encourage the development of appropriate educational programs in the state's community colleges.

Joint Committee Vote: The Committee adopted the recommendation of the Department and Committee staff by a vote of 6-0.

Joint Committee Comments: Currently a high school diploma or its equivalent is the only educational requirement to become a licensed hearing aid dispenser. That requirement was established as recently as 1994 (AB 1807, Chapter 26, Statutes of 1994). The licensing law authorizes HADEC to recommend the preparation of and administration of a course of instruction pertaining to fitting hearing aids, and require applicants for licensure to complete the course.

Numerous proposals for education standards have been set forth by the various interested parties. In last year's AB 1245 (Martinez), the Hearing Healthcare Providers proposed to require a bachelor's degree, or, as an alternative, a degree from the American Conference of Audioprosthology. The California Academy of Audiology proposes requiring a graduate degree in audiology as the entry-level educational standard by the year 2000. These proposals appear to raise the standard too high too quickly, and would likely adversely impact a number of economically disadvantaged individuals seeking entrance into a trade or profession.

In addition, HADEC has promulgated regulations requiring specified postsecondary course work. However, the proposed regulation was rejected by the Office of Administrative Law. The Committee is currently putting forth a new regulatory proposal for education requirements.

**2006 Bureau Response**

In May 2005, the Bureau scheduled an informational hearing for the Bureau and the Advisory Committee members to invite comments from the public regarding educational requirements for hearing aid dispensers. As a result of the hearing, Committee members concluded that the focus should be on training trainees under the guidance of the licensed supervisors rather than increasing the educational requirements for applicants.

In March 2006, the Bureau held a sub-committee meeting to discuss the trainee program. There have been ongoing communications with the public and the associations on this issue. This matter remains before the sub-committee to develop a final recommendation to the Bureau.

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**ISSUE #3. Should the Bureau transfer the continuing education function to a professional association, which represents hearing aid dispensers?**

*Joint Committee Recommendation:* The Department did not address this issue. Committee staff recommended that the continuing education program provided by the Bureau not be transferred to a private professional association.

*Joint Committee Vote:* The Joint Committee adopted the recommendation of Committee staff by a vote of 6-0.

*Joint Committee Comment:* The Hearing Health Care Providers (HHP), a professional association of some 500 members who are hearing aid dispensers, audiologists and others, recommends that the continuing education (CE) function of HADEC be transferred to HHP “where it can receive the time and resources necessary to ensure the highest quality continuing education programming possible.” HHP believes that HADEC, with its limited budget is not prepared to fully manage the CE function along with its other responsibilities.

Since there are no formal education (other than a high school education) or training requirements licensure, HADEC requires licensees to complete nine hours (the requirement was six hours prior to 1997) of continuing education. Annually, upon renewal, licensees must, under penalty of perjury, attest to having completed the required CE. All CE is subject to monitoring and audit, but HADEC does not verify all CE. HADEC approves CE courses.

The HHP believes that with the recent increase in the CE requirement, the Committee cannot adequately administer the CE program, and it would be appropriate for the professional association to administer the program. However, such a move appears to be self-serving for an association whose membership makes up approximately 30% of the licensees. The Joint Committee may wish to recommend not turning over this State regulatory function to a private association.

**2006 Bureau Response:**

The Bureau concurs with the Joint Committee’s recommendation. Maintaining this responsibility with the Bureau helps ensure that it remains independent and objective, accessible to all applicants and licensees via the website, and focused on the needs of the consumer.

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**ISSUE #4. Should an electronic tracking system be implemented to obtain timely, accurate and complete licensing and enforcement data?**

*Joint Committee Recommendation: The Department did not address this issue. Committee staff concurred with recommendation of HADEC to implement an electronic tracking system, as long as the Committee complies with all mandated requirements to implement any new technology project.*

*Joint Committee Vote: The Joint Committee adopted the recommendation of HADEC and Committee staff by a vote of 6-0.*

*Joint Committee Comment: HADEC's application review process is not automated, due to the Committee's ongoing fiscal problems. Manually tracking and processing applications is a time-intensive personal review process. The Joint Committee has historically supported the application of technology when it will improve the efficiency and effectiveness of any board. However, HADEC must proceed with due regard to its budgetary constraints, and operate in keeping with the requirements of the Government Code and the State Administrative Manual to implement an electronic tracking system.*

**2006 Bureau Response**

The Bureau participates and utilizes the Department's automated Consumer Affairs system (CAS) for complaint and enforcement tracking. The Bureau also maintains the official licensee records in the automated CAS system. Licensing status can be verified via the website which is updated daily.

On July 1, 2006, the Bureau began the process of incorporating the Department's Applicant Tracking System (ATS), which is used to track applicants for licensure throughout the application process. This system also has the ability to interact with the CAS licensing and enforcement systems and provides various statistical reports for management use. It is also a necessary step to join the departments i-Licensing program which will offer online services.

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**ISSUE #5. Should HADEC implement electronic testing for the written examination?**

*Joint Committee Recommendation: The Department did not address this issue. Committee staff recommended that HADEC should, as budgetary constraints will allow, implement electronic testing for the written examination. It should coordinate its efforts with the Department of Consumer Affairs.*

*Joint Committee Vote: The Joint Committee adopted the recommendation of HADEC and Committee staff by a vote of 6-0.*

*Joint Committee Comment: Currently, the written examination is administered four times a year by the Committee. In 1994 and 1995, the written exam was administered electronically through an examination contractor. The contract with the company administering the examination expired at the end of 1995. At that time, the Department was in the process of selecting a contractor who could administer electronic exams for multiple boards and Committees. The Committee states, that when a contractor, or contractors, is selected, it will evaluate the feasibility of resuming electronic testing for the written portion of the exam.*

**2006 Bureau Response:**

At the time of the last sunset review, the Bureau administered the hearing aid dispensers written examination three times a year in Sacramento using the pencil and paper method, which resulted in considerable expense to the applicants.

In May 2000, the Bureau entered into the Department's Master Service Agreement (MSA) for computer-based testing (CBT) services with a contractor. The contractor provides registration, scheduling, candidate handbook development and distribution, eligibility notification, computer-based test (CBT) administration, scoring and score reporting.

The Bureau has also found that electronic test administration has increased examination security, allows for better utilization of staff resources, and provides improved services to the applicants without an increase in fees. Administering the exam electronically throughout the state allows applicants greater access to the exam, is cost effective, and has significantly enhanced the Bureau's examination process.

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**ISSUE #6. Should HADEC report to the Joint Committee on the large number of fraud complaints against licensees, and discuss possible causes and solutions?**

*Joint Committee Recommendation: The Department did not address this issue. Committee staff recommended that HADEC report to the Joint Committee by October 1, 1998, on the causes for the large number of complaints involving fraud and make recommendations for possible solutions.*

*Joint Committee Vote: The Joint Committee adopted the recommendation of HADEC and Committee staff by a vote of 6-0.*

*Joint Committee Comment: Over the past three years, 811 of the 962 complaints filed with the board against licensees were for fraud. The board should speak to the nature of that fraud and possible causes and solutions.*

**2006 Bureau Response**

In 1998, the Bureau complied with the Joint Committee's request by submitting an extensive report explaining the cause for "fraud" complaints filed against licensees and possible solutions. Based on the Bureau's research, it was determined that the majority of fraud complaints filed relate to advertising issues. Typical advertising complaints the Bureau received are copies of newspaper advertisements, direct mail solicitations, copies of business cards and yellow page ads. Most advertising complaints are submitted anonymously or by other licensees. This suggests that competition is one motive for the large number of advertising complaints filed with the Bureau.

To educate dispensers on appropriate advertising, the Bureau developed a fact sheet entitled "Advertising Guidelines for Hearing Aid Dispensers" and disbursed them during various events. These guidelines can also be found on the Bureau's website and in California Code of Regulations Section 1399.127.

A small percentage of complaints filed pertained to refunds relating to the Song-Beverly Consumer Warranty Act, which provides a 30-day warranty on all hearing aids sold in California. If the buyer returns the device within the 30-day period, the dispenser is required to adjust, repair, or replace, the hearing aid. If, after the adjustment, the device still does not specifically suit the buyer's particular needs, the buyer may return the device for a refund.

Since the findings of this report were submitted to the Joint Committee in 1998, the trend in complaints remains the same. The majority of complaints received by the Bureau continue to be related to advertising issues and submitted anonymously or by other licensees. The Bureau has been persistent in addressing this continuous problem by developing educational presentations and handing out pamphlets at various consumer and industry events.

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**ISSUE #7. Should licensing fees be increased, as recommended by HADEC?**

*Joint Committee Recommendation: Both the Department and Committee staff recommended against a fee increase at this time. Currently, over 50 percent of the Bureau's budget goes to enforcement. The fiscal profile of a merger of the Bureau and the Speech-Language, Pathology and Audiology Board (SLPAB), could provide some cost savings through elimination of duplicative functions. A fee increase proposal would be premature until after evaluation of the proposed merger of these two agencies.*

*Joint Committee Vote: The Joint Committee adopted the recommendation of Committee staff by a vote of 6-0.*

*Joint Committee Comment: The Committee has experienced ongoing fiscal problems in spite of two fee increases in the last seven years. Enforcement costs increased dramatically after the Committee assumed full responsibility of its enforcement program from the Medical Board of California (MBC) in 1994. HADEC attributes the increase to the investigation of old cases, which had languished at the MBC. Now that most of the old cases are closed and cases are being investigated in a timely manner, the enforcement costs appear to be stabilizing. For the first time in years, the Committee did not exceed its enforcement budget this FY.*

*The Committee states that the recent containment of enforcement costs could indicate that the current fees might be able to support the Committee's programs. However, should the complexity or the number of cases increase, the Committee's budget could not accommodate the needs.*

*HADEC's budget for FY1997/98 is \$578,000 and projected revenues are \$525,169. The largest single budget category is enforcement, where HADEC is budgeted to spend 56.5% (\$326,444). Of the enforcement budget, the largest single components are the Division of Investigation - \$156,448 (for complaint investigations), and the Attorney General - \$70,599. Based upon current revenues and expenditures, the Committee expects deficits of \$27,000 by the end of FY 1999/00 and \$102,000 in FY 2000/01.*

*HADEC is confident that increased funding would allow continued proactive movement toward assuring the highest level of consumer protection. HADEC suggests either of the following fee increase options: (1) a temporary fee increase, or assessment, to cover enforcement debts; (2) a permanent increase across all fees, to maintain strong revenues. The Committee sought to address the fiscal situation legislatively by pursuing a fee increase this year. However, an author could not be found for their proposal which would have increased fees for a two-year period.*



## **2006 Bureau Response**

Since the last sunset review and the transitioning of the Committee to a Bureau under the Department's authority, the budget has improved and should be able to withstand most unexpected enforcement or other related program costs. Additionally enforcement costs have been steadily decreasing, and thereby contributing to the Bureau's positive fund reserve balance.

In FY 2003/04 through 2004/05, the Bureau maintained a 22.9 to 19.2 month fund reserve. In FY 2005/06 through 2007/08, the Bureau is projected to maintain a fund reserve of 18.7 to 17.5 months. The renewal fee remains at \$280 per year and the Bureau does not plan to request a fee increases at this time.

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**ISSUE #8. Should the Bureau (formerly HADEC) be continued as an independent Board, or should it be merged with another licensing Board or should its functions and operations be assumed by the Department?**

*Joint Committee Recommendation:* As indicated earlier, both the Department and Committee staff recommended that the Joint Committee give strong consideration to merging the Hearing Aid Dispenser Examining Committee with the Speech-Language Pathology and Audiology Board.

*Joint Committee Vote:* The Joint Committee did not adopt the recommendation of the Department and Committee staff by a vote of 1-4.

**2006 Bureau Response**

In 1998, two legislative proposals were introduced related to the status of the Committee. SB 1982 proposed to merge the Committee with the Speech-Language Pathology and Audiology Board and AB 2658 would have extended the sunset date of the Committee. Both legislative proposals failed and the Committee was transitioned to the Department as a program. In 1999, AB 545 (Chapter 440, Statutes of 1999) constituted the program as a "Commission" under the authority of the Department, with an Advisory body comprised of seven Commission members. In 2000, AB 2697 (Chapter 277, Statutes of 2000) converted the Commission to the Hearing Aid Dispensers Bureau and transitioned the Commission membership, to Advisory Committee members. This remains the current structure.

Since the Joint Committee last posed this issue, the following strides have been made by the Bureau, which reflects that the current structure is viable and serves both the licensees and consumers. Specifically, the number of complaints has been reduced through the Bureau's licensee and consumer education. Further, the Bureau has reached a fiscally sound status, and has been able to take advantage of the Department's services (i.e, consumer outreach, complaint mediation services, automated testing services).

AMENDED IN SENATE APRIL 23, 2012

AMENDED IN SENATE APRIL 11, 2012

**SENATE BILL**

**No. 1444**

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**Introduced by Senator Anderson**

*(Coauthors: Senators Correa, Negrete McLeod, and Strickland)*

February 24, 2012

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An act to ~~add Section 2530.7 to the Business and Professions~~ *amend Section 1793.02 of the Civil Code*, relating to assistive devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 1444, as amended, Anderson. Assistive devices: ~~warranty: regulations:~~ *warranty.*

*Existing law provides that all new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which is required to contain specified language including that the assistive device is warranted to be specifically fit for the particular needs of the buyers.*

*This bill would, with respect to hearing aids, delete the warranty requirement that the devices be specifically fit for the particular needs of the buyer.*

~~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 that define the express terms that must be provided in a purchase agreement for a hearing aid, notwithstanding the existing provisions otherwise applicable to a warranty for a hearing aid.~~

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

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

1     SECTION 1. Section 1793.02 of the Civil Code is amended to  
2 read:

3     1793.02. (a) All new and used assistive devices, *with the*  
4 *exception of hearing aids*, sold at retail in this state shall be  
5 accompanied by the retail seller's written warranty which shall  
6 contain the following language: "This assistive device is warranted  
7 to be specifically fit for the particular needs of you, the buyer. If  
8 the device is not specifically fit for your particular needs, it may  
9 be returned to the seller within 30 days of the date of actual receipt  
10 by you or completion of fitting by the seller, whichever occurs  
11 later. If you return the device, the seller will either adjust or replace  
12 the device or promptly refund the total amount paid. This warranty  
13 does not affect the protections and remedies you have under other  
14 laws." In lieu of the words "30 days" the retail seller may specify  
15 any longer period.

16     (b) The language prescribed in subdivision (a) shall appear on  
17 the first page of the warranty in at least 10-point bold type. The  
18 warranty shall be delivered to the buyer at the time of the sale of  
19 the device.

20     (c) If the buyer returns the device within the period specified  
21 in the written warranty, the seller shall, without charge and within  
22 a reasonable time, adjust the device or, if appropriate, replace it  
23 with a device that is specifically fit for the particular needs of the  
24 buyer. If the seller does not adjust or replace the device so that it  
25 is specifically fit for the particular needs of the buyer, the seller  
26 shall promptly refund to the buyer the total amount paid, the  
27 transaction shall be deemed rescinded, and the seller shall promptly  
28 return to the buyer all payments and any assistive device or other  
29 consideration exchanged as part of the transaction and shall  
30 promptly cancel or cause to be canceled all contracts, instruments,  
31 and security agreements executed by the buyer in connection with  
32 the sale. When a sale is rescinded under this section, no charge,  
33 penalty, or other fee may be imposed in connection with the  
34 purchase, fitting, financing, or return of the device.

1 (d) With respect to the retail sale of an assistive device to an  
2 individual, organization, or agency known by the seller to be  
3 purchasing for the ultimate user of the device, this section and  
4 subdivision (b) of Section 1792.2 shall be construed to require that  
5 the device be specifically fit for the particular needs of the ultimate  
6 user.

7 (e) This section and subdivision (b) of Section 1792.2 shall not  
8 apply to any of the following sales of assistive devices:

9 (1) A catalog or similar sale, as defined in subdivision (q) of  
10 Section 1791, except a sale of a hearing aid.

11 (2) A sale which involves a retail sale price of less than fifteen  
12 dollars (\$15).

13 (3) A surgical implant performed by a physician and surgeon,  
14 or a restoration or dental prosthesis provided by a dentist.

15 (f) The rights and remedies of the buyer under this section and  
16 subdivision (b) of Section 1792.2 are not subject to waiver under  
17 Section 1792.3. The rights and remedies of the buyer under this  
18 section and subdivision (b) of Section 1792.2 are cumulative, and  
19 shall not be construed to affect the obligations of the retail seller  
20 or any other party or to supplant the rights or remedies of the buyer  
21 under any other section of this chapter or under any other law or  
22 instrument.

23 (g) Section 1795.5 shall not apply to a sale of used assistive  
24 devices, and for the purposes of the Song-Beverly Consumer  
25 Warranty Act the buyer of a used assistive device shall have the  
26 same rights and remedies as the buyer of a new assistive device.

27 (h) The language in ~~subdivision~~ subdivisions (a) and (i) shall  
28 not constitute an express warranty for purposes of Sections 1793.2  
29 and 1793.3.

30 (i) (1) (A) *All new and used hearing aids sold in this state shall*  
31 *be accompanied by the retail seller's written warranty, which shall*  
32 *appear on the first page of the warranty in at least 10-point bold*  
33 *type, delivered to the buyer at the time of the sale of the device,*  
34 *and shall contain the following language:*

35  
36 *This assistive device may be returned to the seller within 30 days*  
37 *from the date you are fitted with the assistive device and take*  
38 *possession of the device. If you return the device, the seller will*  
39 *either adjust or replace the device, or promptly refund the total*

1 amount paid. This warranty does not affect the protections and  
2 remedies you have under other laws.

3  
4 (B) In lieu of the words “30 days” the retail seller may specify  
5 any longer period.

6 (2) If the buyer returns a hearing aid within the period specified  
7 in the written warranty, the seller shall, without charge and within  
8 a reasonable time, adjust the device or, if appropriate, replace it.  
9 If the seller does not adjust or replace the device, the seller shall  
10 promptly refund to the buyer the total amount paid. The transaction  
11 shall be deemed rescinded, and the seller shall promptly return to  
12 the buyer all payments and any assistive device or other  
13 consideration exchanged as part of the transaction. The seller  
14 shall promptly cancel or cause to be canceled all contracts,  
15 instruments, and security agreements executed by the buyer in  
16 connection with the sale. When a sale is rescinded under this  
17 section, no charge, penalty, or other fee may be imposed in  
18 connection with the purchase, fitting, financing, or return of the  
19 device.

20 (3) If the hearing aid must be repaired, remade, or adjusted  
21 during the 30-day warranty period, or longer period if specified  
22 by the seller, the warranty period is suspended for one day for  
23 each 24-hour period that the hearing aid is not in the buyer’s  
24 possession. The warranty period shall resume on the day the buyer  
25 reclaims the repaired, remade, or adjusted hearing aid or five  
26 working days after notification of availability, whichever is earlier.

27 ~~SECTION 1. Section 2530.7 is added to the Business and~~  
28 ~~Professions Code, to read:~~

29 ~~2530.7. Notwithstanding Section 1793.02 of the Civil Code,~~  
30 ~~the board may adopt regulations that define the express terms that~~  
31 ~~must be provided in a purchase agreement for a hearing aid.~~

**ASSEMBLY BILL**

**No. 1454**

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**Introduced by Assembly Member Solorio**

January 9, 2012

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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.*

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AMENDED IN SENATE JUNE 25, 2012

AMENDED IN ASSEMBLY MARCH 5, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1588**

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**Introduced by Assembly Member Atkins**  
**(Principal coauthors: Assembly Members Cook and Nielsen)**  
**(Coauthors: Assembly Members *Allen, Bill Berryhill, Block, Butler,***  
***Beth Gaines, Pan, V. Manuel Pérez, Williams, and Yamada*)**

February 6, 2012

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An act to add Section 114.3 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1588, as amended, Atkins. Professions and vocations: reservist licensees: fees and continuing education.

Existing law provides for the regulation of various professions and vocations by boards, ~~commissions, or bureaus~~ within the Department of Consumer Affairs and for the licensure or registration of individuals in that regard. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met.

This bill would require the boards, ~~commissions, or bureaus~~ described above to waive the renewal fees ~~and~~, continuing education requirements, ~~if either is applicable~~ *and other renewal requirements as determined by the board, if any are applicable*, of any licensee or registrant who is a reservist called to active duty as a member of the United States

Military Reserve or the California National Guard if certain requirements are met. *The bill would require a licensee or registrant to meet certain renewal requirements within a specified time period after being discharged from active duty service prior to engaging in any activity requiring a license.*

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 114.3 is added to the Business and  
 2 Professions Code, to read:  
 3 114.3. (a) Notwithstanding any other provision of law, every  
 4 board, ~~commission, or bureau~~ *as defined in Section 22*, within the  
 5 department shall waive the renewal fees ~~and~~, continuing education  
 6 requirements, ~~if either is applicable~~ *and other renewal requirements*  
 7 *as determined by the board, if any are applicable*, for any licensee  
 8 or registrant who is a reservist called to active duty as a member  
 9 of the United States Military Reserve or the California National  
 10 Guard if all of the following requirements are met:  
 11 (a)  
 12 (1) The licensee or registrant ~~was in good standing~~ *possessed*  
 13 *a current and valid license* with the board, ~~commission, or bureau~~  
 14 ~~at the time the reservist he or she was called to active duty.~~  
 15 (b)  
 16 (2) The renewal fees ~~or continuing education~~ requirements are  
 17 waived only for the period during which the ~~reservist licensee or~~  
 18 ~~registrant~~ *is on active duty service.*  
 19 (c) ~~The active duty reservist, or the active duty reservist's spouse~~  
 20 ~~or registered domestic partner, provides written notice satisfactory~~  
 21 ~~to the board, commission, or bureau that substantiates the~~  
 22 ~~reservist's active duty service.~~  
 23 (3) *Written documentation that substantiates the licensee or*  
 24 *registrant's active duty service is provided to the board.*  
 25 (b) *The licensee or registrant shall not engage in any activities*  
 26 *requiring a license during the period that the waivers provided by*  
 27 *this section are in effect. In order to engage in any activities for*  
 28 *which he or she is licensed, the licensee or registrant shall meet*  
 29 *all necessary renewal requirements as determined by the board*

- 1 *within one year from the reservist's date of discharge from active*
- 2 *duty service.*
- 3 *(c) A board may adopt regulations to carry out the provisions*
- 4 *of this section.*

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AMENDED IN SENATE JUNE 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1904**

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**Introduced by Assembly Members Block, Butler, and Cook**

February 22, 2012

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An act to add Section 115.5 to the Business and Professions Code, relating to professions and vocations, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1904, as amended, Block. Professions and vocations: military spouses: ~~temporary licenses:~~ *expedited licensure.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. ~~Under existing law, licensing fees imposed by certain boards within the department are deposited in funds that are continuously appropriated. Existing law authorizes a licensee to reinstate an expired license without examination or penalty if, among other requirements, the license expired while the licensee was on active duty as a member of the California National Guard or the United States Armed Forces.~~

This bill would ~~authorize~~ *require* a board within the department to ~~issue a temporary license to expedite the licensure process for~~ an applicant who, ~~among other requirements,~~ holds an equivalent *a* license in the same profession or vocation in another jurisdiction, ~~as specified,~~ and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station

in California under official active duty military orders. ~~The bill would require a board to expedite the process for issuing these temporary licenses. The bill would require the applicant to pay any fees required by the board and would require that those fees be deposited in the fund used by the board to administer its licensing program. To the extent that the bill would increase the amount of money deposited into a continuously appropriated fund, the bill would make an appropriation.~~

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

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

1 SECTION 1. Section 115.5 is added to the Business and  
2 Professions Code, to read:  
3 115.5. (a) A board within the department ~~may issue a~~  
4 ~~temporary license to~~ *shall expedite the licensure process for an*  
5 applicant who meets ~~all~~ *both* of the following requirements:  
6 (1) ~~Submits an application in the manner prescribed by the~~  
7 ~~board.~~  
8 (2)  
9 (1) Supplies evidence satisfactory to the board that the applicant  
10 is married to, or in a domestic partnership or other legal union  
11 with, an active duty member of the Armed Forces of the United  
12 States who is assigned to a duty station in this state under official  
13 active duty military orders.  
14 (3)  
15 (2) Holds a current license in another state, district, or territory  
16 of the United States ~~with the requirements that the board determines~~  
17 ~~are substantially equivalent to those established under this code~~  
18 ~~for that occupation~~ *in the profession or vocation for which he or*  
19 *she seeks a license from the board.*  
20 (4) ~~Has not committed an act in any jurisdiction that would have~~  
21 ~~constituted grounds for denial, suspension, or revocation of the~~  
22 ~~license under this code at the time the act was committed.~~  
23 (5) ~~Has not been disciplined by a licensing entity in another~~  
24 ~~jurisdiction and is not the subject of an unresolved complaint,~~  
25 ~~review procedure, or disciplinary proceeding conducted by a~~  
26 ~~licensing entity in another jurisdiction.~~

1     ~~(6) Pays any fees required by the board. Those fees shall be~~  
2     ~~deposited in the applicable fund or account used by the board to~~  
3     ~~administer its licensing program.~~

4     ~~(7) Submits fingerprints and any applicable fingerprinting fee~~  
5     ~~in the manner required of an applicant for a regular license.~~

6     ~~(b) A board shall expedite the procedure for issuing a temporary~~  
7     ~~license pursuant to this section.~~

8     ~~(c) A temporary license issued under this section shall be valid~~  
9     ~~for 180 days, except that the license may, at the discretion of the~~  
10    ~~board, be extended for an additional 180-day period on application~~  
11    ~~of the license holder.~~

12    ~~(d)~~

13    ~~(b) A board may adopt regulations necessary to administer this~~  
14    ~~section.~~



**ASSEMBLY BILL**

**No. 2570**

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**Introduced by Assembly Member Hill**  
(Coauthor: Senator Correa)

February 24, 2012

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An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2570, as introduced, Hill. Licensees: settlement agreements.

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct are not to be reported to the disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency.

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs, or an entity or person acting as an authorized agent of a licensee, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program. A licensee in violation of these provisions would be subject to disciplinary action by the board, bureau, or program. The bill would also prohibit a board, bureau, or program from requiring its licensees in a disciplinary action that is based on a complaint or report that has been settled in a civil

action to pay additional moneys to the benefit of any plaintiff in the civil action.

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 143.5 is added to the Business and  
2 Professions Code, to read:

3 143.5. (a) No licensee who is regulated by a board, bureau, or  
4 program within the Department of Consumer Affairs, nor an entity  
5 or person acting as an authorized agent of a licensee, shall include  
6 or permit to be included a provision in an agreement to settle a  
7 civil dispute, whether the agreement is made before or after the  
8 commencement of a civil action, that prohibits the other party in  
9 that dispute from contacting, filing a complaint with, or cooperating  
10 with the department, board, bureau, or program or that requires  
11 the other party to withdraw a complaint from the department,  
12 board, bureau, or program. A provision of that nature is void as  
13 against public policy, and any licensee who includes or permits to  
14 be included a provision of that nature in a settlement agreement  
15 is subject to disciplinary action by the board, bureau, or program.

16 (b) Any board, bureau, or program within the Department of  
17 Consumer Affairs that takes disciplinary action against a licensee  
18 or licensees based on a complaint or report that has also been the  
19 subject of a civil action and that has been settled for monetary  
20 damages providing for full and final satisfaction of the parties may  
21 not require its licensee or licensees to pay any additional sums to  
22 the benefit of any plaintiff in the civil action.

23 (c) As used in this section, “board” shall have the same meaning  
24 as defined in Section 22, and “licensee” means a person who has  
25 been granted a license, as that term is defined in Section 23.7.

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Speech-Language Pathology and  
Audiology and Hearing Aid Dispensers Board

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STRATEGIC PLAN  
2012 - 2015

## Members of the Board

- **Alison Grimes - Vice Chairperson, AuD Licensed Audiologist**
- **Sandra Danz, Licensed Hearing Aid Dispenser**
- **Rodney Diaz, Otolaryngologist, Public Member**
- **Jaime Lee, J.D., Public Member**
- **Deane Manning, Licensed Hearing Aid Dispenser**
- **Monty Martin, M.S., Public Member**
- **Carol Murphy, M.A., Licensed Speech-Language Pathologist**



EDMUND G. BROWN JR. – Governor

ANNA CABALLERO – Secretary, State and Consumer Services Agency

DENISE D. BROWN – Director, Department of Consumer Affairs

ANNEMARIE DEL MUGNAIO – Executive Officer

# Environmental Scan

The development of this strategic plan was preceded by an environmental scan of the industry. The scan identified the potential issues and challenges which might affect the Board's ability to carry out its mission.

## **Economics:**

- Speech-Language Pathologists in schools will be called upon to assist a larger number of students due to cost saving efforts. School based services may see drastic cut-backs.
- Potential for reduced outreach, CCS/children's healthcare, and possible cut-backs in Medi-Cal hearing aids.

## **Workforce:**

- A shortage of audiologists (especially pediatric audiologists) continues to persist.
- Potential trend towards increased private practice. Ear, nose and throat doctors are becoming licensed in audiology, as a means to broaden billable services. Subsequently may cause a loss of revenue for current audiologists.

## **Industry/ Profession**

- Recent hiring of Board investigator will increase licensee accountability and ensure timely action on complaints filed by consumers.
- New service delivery models for hearing aids threaten audiologists in private practice.

## **Technology:**

- Increasing need for telehealth but a lack of existing telehealth infrastructure.
- Dangerous new schemes for patients to fit their own hearing aids.
- Major concern that internet sales of hearing aids will degrade "hands on" consumer/patient care, ultimately leaving the consumer with a device that is less specifically tailored to their needs.

## **Consumer/ Stakeholder:**

- Reluctance to seek professional care due to the cost and current state of the economy.
- Consumers are becoming better educated regarding hearing health care and have greater access to the internet and will do more research online. The "informed consumer" will come to expect a higher level of professionalism as well as product performance.
- The Board has successfully realigned requirements for continuing education, which will serve to improve licensee competence.
- There are new credentialing requirements for SLP assistants.
- There has been an increase of children on the autism spectrum, and of fragile (pre-term, NICU) babies. There are also an increasing number of children whose parents don't read to them causing speech-language delay.

## Recent Accomplishments

- ✓ The recent combining of the Speech Language Pathology and Audiology Board with the Hearing Aid Dispensers Bureau has streamlined and consolidated services.
- ✓ The Board has dramatically improved its enforcement plan and related efforts, with the hiring of a Board (in-house) investigator.
- ✓ The Board has introduced streamlined processes for investigation and mediation.
- ✓ Communication has significantly improved with outreach to consumers.
- ✓ The Board has undertaken significant networking efforts and has increased communication with other stakeholders.
- ✓ The Board created a new license type, Dispensing Audiologist, which eliminated the need for an audiologist to hold a separate hearing aid dispensers license.

## Our Mission

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board protects the health, safety, and welfare of the people of California by requiring adherence to laws and regulations designed to ensure the qualifications and competency of providers of speech-language pathology, audiology and hearing aid dispensing services.

## Our Vision

Every person in the State of California has access to communication, diagnosis, treatment and related services of the highest quality.

## Our Values

**Integrity:** We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

**Effectiveness:** We make informed decisions that make a difference and have a positive, measurable impact.

**Professionalism:** We ensure that qualified, proficient and skilled staff provides services to California consumers.

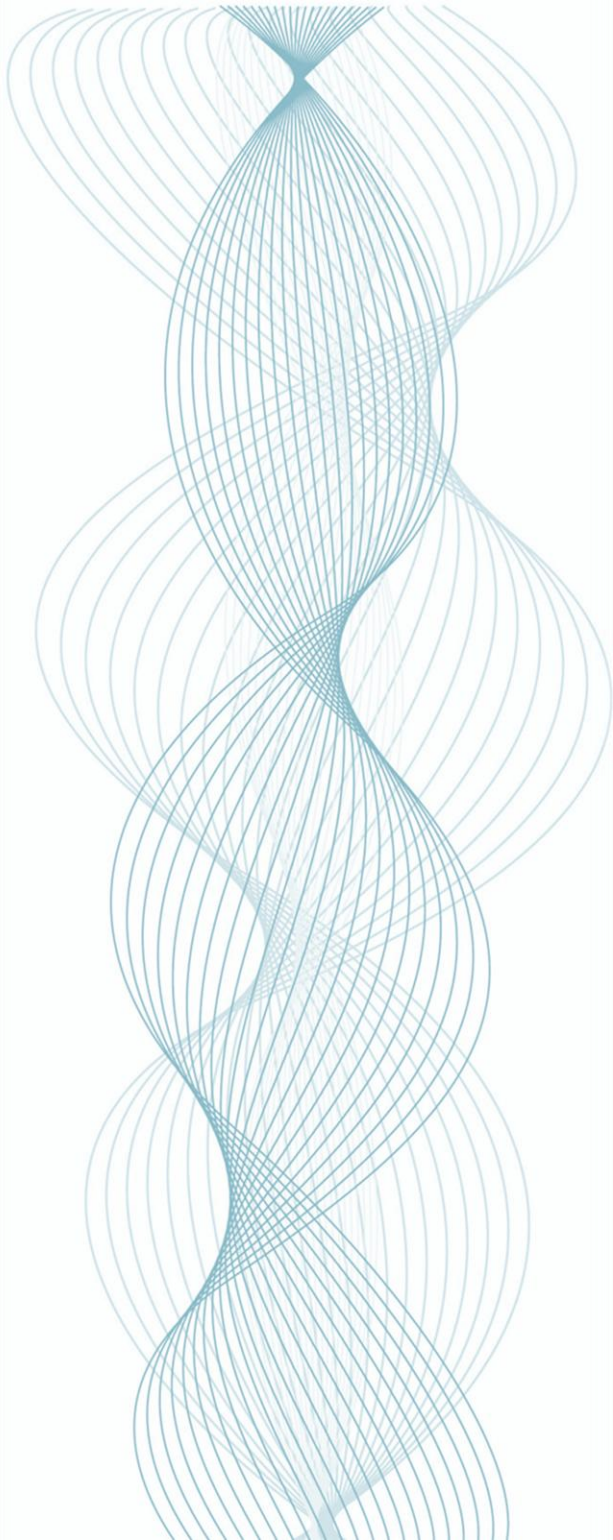
**Service:** We listen and are responsive to the needs of our stakeholders.

**Efficiency:** We work diligently to identify the most efficient use of our resources.

**Consumer Protection:** We strive to protect the best interests and the safety of Californians.

# Goal 1: Enforcement

*The health and safety of California consumers is protected through the active enforcement of the laws and regulations governing the practices of speech-language pathology, audiology and hearing aid dispensers.*



**1.1** Establish disciplinary guidelines that allow the Board to monitor probationer terms and conditions and serve to remediate misconduct.

- ✓ Develop and submit draft version. (Executive Officer & Board staff, April 2012)
- ✓ File regulatory action with OAL and DCA. (Executive Officer & Board staff, Oct 2012)

**1.2** Ensure consistent and fair enforcement decisions which are in line with the degree of infraction. (Board members)

**1.3** Adhere to established cycle time targets for internal enforcement measures.

- ✓ Continue to monitor measure outcomes and report to the Executive Officer and the Board members. (Program Manager, ongoing)

**1.4** Provide the public with access and timely information related to disciplinary matters through the Board's website.

- ✓ Continue posting quarterly performance measures to DCA website. (Program Manager, ongoing)
- ✓ Release enforcement statistics to the public via the website. (Program Manager, May 2012)
- ✓ Provide public disclosure on enforcement actions through the website. (Program Manager, May 2012)

**1.5** Continue to streamline the investigation and probation monitoring processes.

- ✓ Develop and publish policies and procedures. (Board staff, Sept 2012)



## Goal 2: Licensing

***Ensure licensing standards that protect consumers while permitting reasonable access into the professions.***

**2.1** Implement access to online licensing and renewals in conjunction with the launch of BreEZe.

- ✓ Staff will continue to work with DCA's BreEZe unit to achieve a successful launch. (Program Manager , Ongoing)

**2.2** Keep licensees informed about the changes and new functionality that will be offered by the new BreEZe system.

- ✓ Update the website with FAQ's, and a bullet list of upcoming changes. (Board staff, Dec 2012)
- ✓ Contact partner organizations and training programs to request assistance in educating licensees about new online licensing functionality. (Board staff, Dec 2012)
- ✓ Begin to capture licensee email addresses and utilize them for future e-mail blasts. (Board staff, Ongoing)
- ✓ Develop informative mailer to send to licensees regarding new BreEZe functionality. (Board staff, Dec 2012)

**2.3** Evaluate the validity and content of existing exams and ensure they are reflective of current practice standards.

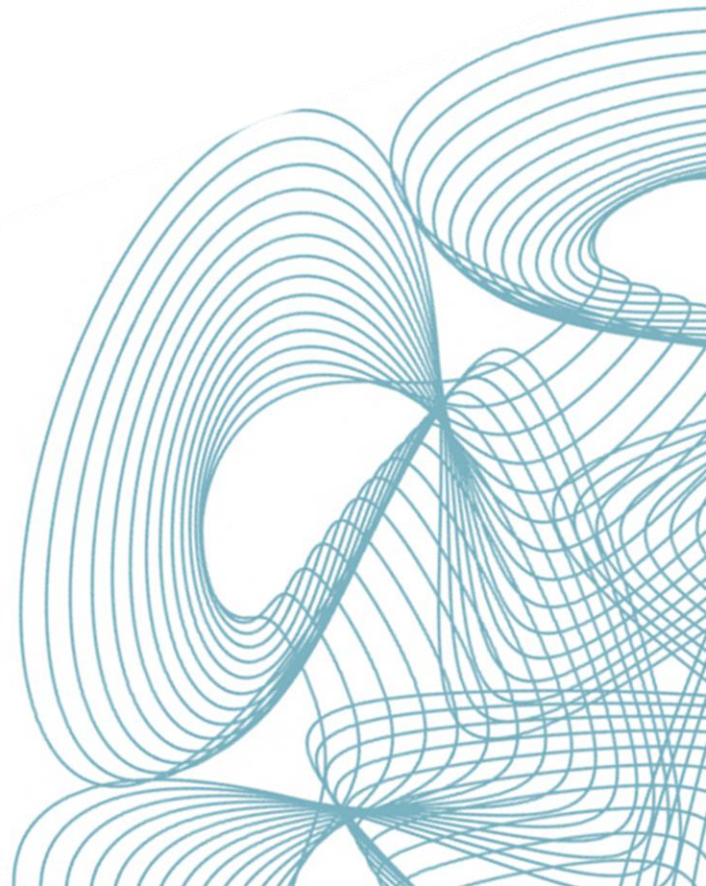
- ✓ Conduct a standard setting study for English language competency examinations. (OPES,

Board staff, Dec 2012)

- ✓ Evaluate the Audiology exam. (OPES & Board staff, March 2013)
- ✓ Evaluate the Speech-Language Pathology exam.(OPES & Board staff, June 2014)
- ✓ Evaluate the Hearing Aid Dispensers exam. (OPES & Board staff, Aug 2013)
- ✓ Adopt findings as indicated. (Board staff, Sept 2014)

**2.4** Evaluate opportunities for creating greater access to licensure (reciprocity, temporary licenses, etc.)

- ✓ Research other professions' provisions and other state regulatory boards. (Board members, ongoing)



## Goal 3: Outreach

*Consumers and other stakeholders are educated and informed about the practices, and laws and regulations governing the professions of speech-language pathology, audiology and hearing aid dispensing.*

**3.1** Address the fact that many consumers don't know that they've received poor service, or may be unaware of what actions to take.

- ✓ Conduct additional outreach with target groups, such as health fairs, to increase awareness. (Board members, ongoing)
- ✓ Distribute consumer fact sheets to target groups. (Board staff, ongoing)
- ✓ Update pamphlets and promotional materials. (Program Manager & PDE, Sept 2012)

**3.2** Collaborate with other governmental agencies to ensure the dissemination of accurate information relevant to the Board's professions. (Board members or Subject Matter Experts, ongoing)

**3.3** Refer licensees to the newly updated Board website for streamlined and improved licensing information. (Board staff, ongoing)

**3.4** Attend venues, conferences, etc. to update stakeholders on regulations of the professions and communicate Board activities. (Executive Officer, ongoing)



## Goal 4: Legislation & Regulation

***Legislation and regulation exist that are contemporary with current practices.***

**4.1** Giving the Board the authority to further define and enforce warranty and return provisions for hearing aids.

- ✓ Actively pursue legislation. (Hearing Healthcare Providers of California & Board members, ongoing)
- ✓ Implement new regulations. (April 2014)

**4.2** Revisit AuD (Doctor of Audiology) entry level licensing standards.

- ✓ Review existing licensing standards, and consider drafting new standards. (Board members, April 2013)

**4.3** Revisit pediatric audiology subspecialty certification.

- ✓ Evaluate adopting the national certification or use of the national exam in California. (Board members, June 2014)

**4.4** Develop supervision requirements and scope of responsibility for audiology aides. (Board members, Oct 2013)

**4.5** Increase the training and supervision standards for SLPA's.

- ✓ Amend regulations. (Board members & staff, Dec 2012)
- ✓ Communicate new standards to training programs. (Board staff, Sept 2013)

**4.6** Examine the Board's authority to regulate remote acquisition of hearing aids.

- ✓ Seek exemption from the FDA and communicate with other state regulatory agencies on these issues. (Board staff & the FDA, Dec 2012)

**4.7** Examine standards for determining continuing competency.

- ✓ Conducting research of effectiveness of continuing competency models versus continuing education. (Board staff, May 2014)

**4.8** Revise advertising guidelines for hearing aids.

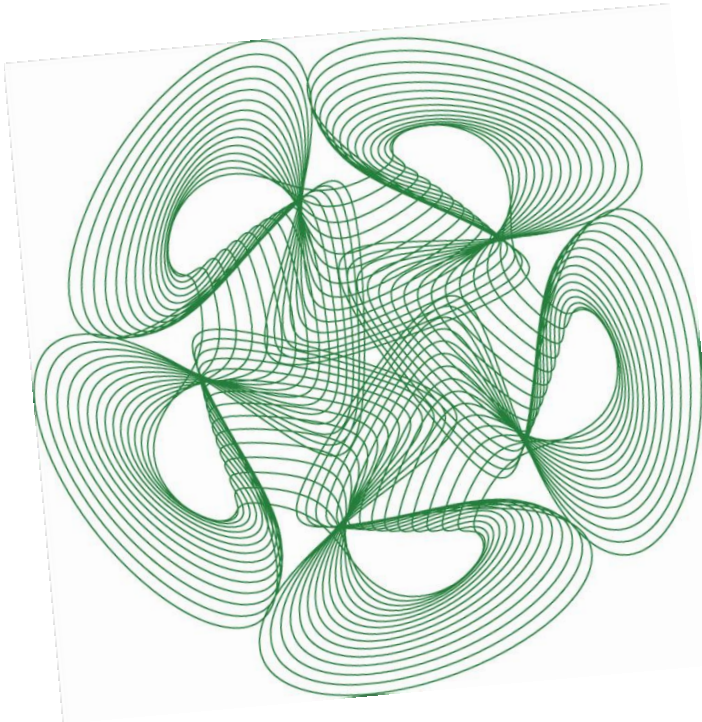
- ✓ Seek professional and consumer input. (Completed)
- ✓ Draft regulations. (Board members, Oct 2012)

**4.9** Revise supervision standards for provisional licensure for SLP and AUD.

- ✓ Draft regulations. (Board members & staff, May 2012)
- ✓ Implement new regulations. (Board staff, Nov 2012)

## Goal 5: Program Administration

*The board efficiently utilizes resources and personnel to meet our goals and objectives.*



5.1 The board efficiently utilizes resources and personnel to meet our goals and objectives.

- ✓ Evaluate current and ongoing program responsibilities and staffing resources. (Executive Officer, ongoing)
- ✓ Recruit for administrative assistant. (Program Manager, Nov 2012)

5.2 Prepare a succession plan for staff member retirements.

- ✓ Draft transition manuals. (Board staff, Jan 2013)

5.3 Communicate Board member vacancies and need for equitable representation on the Board to appropriate appointing authorities. (DCA & Board members, April 2012)

5.4 Cross train current staff across all major functions of the Board.

- ✓ Develop a training plan. (Program Manager, ongoing)

5.5 Prepare Sunset Review report. (Executive Officer & Board members, Oct 2012)



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**  
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- Penalties for Disciplinary Actions  
(Dispensing Audiologists & Hearing Aid Dispensers)

## **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 are both 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 (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 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/ Group Support Meetings:**

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.

While the license is suspended, pending the results of the clinical diagnostic evaluation, the respondent shall submit to two random drug tests.

### **Group Support Meetings:**

If the Board requires the licensee to participate in group support meetings, the Board shall consider the following in determining the frequency of group meeting attendance: the license history, the documented length of sobriety, the recommendation of the clinical evaluator, the scope and pattern of use, the licensee's treatment history; and, the nature, duration, and severity of substance abuse.

The meeting facilitator must have a minimum of three (3) years of experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organization.

The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee within the past five (5) years.

The group meeting facilitator shall provide the Board with documentation evidencing the licensee's attendance at the group support meetings.

The group meeting facilitator shall report any unexcused absence to the Board within twenty-four (24) hours.

## 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.

## Positive Drug Tests

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.

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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. Prior to returning to healthcare or a licensed profession, the Board may increase the testing frequency for at least sixty (60) days.
  - 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.

- |   |  |
|---|--|
| <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. 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. Respondent shall not receive continuing education credit for license renewal for any courses taken pursuant to a disciplinary order or settlement agreement.*

## 10. CONSUMER RESTITUTION FOR HEARING AID WARRANTY ISSUES

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

**Rationale:** *Where there has been patient harm resulting from negligent or incompetent treatment or a determination has been made concerning fraudulent billing or failure to adhere to warranty requirements, restitution may be warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the patient 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 notify the Board that the evaluator has or used to have a financial, personal or business relationship with the Respondent.

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, the respondent 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.~~

#### 1820. 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. In the case of a substance abusing licensee, Respondent shall cause the group meeting facilitator to provide the Board with a signed document showing Respondent's name, group name, the date and location of the meeting, respondent's attendance and level of participation and progress. Respondent shall notify the group meeting facilitator of the facilitator's obligation to report to the Board any unexcused absence within twenty-four (24) hours.*

**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.*

#### 1921. 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 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 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) Restrictedions on Licensed Practice (257) <u>Actual</u> Suspension of <u>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 <u>Practice</u> (235) Restrictions on <u>Licensed Practice</u> (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

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	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 and Conditions 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  
Standard Terms and Conditions 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)  
Supervised Practice (235)  
Worksite Monitor (24)  
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 -- 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 and Conditions of Probation (1-135)  
Clinical Diagnostic Evaluation (17)  
Attend Chemical Dependency Support and Recovery  
Groups (1820)  
Abstain from Drugs Controlled Substances and  
Alcohol (19-201-22)  
Submit Biological Fluids Samples (213)  
Worksite Monitor (24)  
Actual Suspension of License (278)  
If warranted:  
~~Submit to Physical Examination by Physician  
(146)~~  
~~Psychological Evaluation (157)~~  
~~Drug and Alcohol Rehabilitation (17)~~  
~~Supervised Practice (235)~~  
~~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 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 and Conditions 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 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 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 and Conditions 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 and Conditions 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 <u>Practice</u> (235) If warranted: Psychological Evaluation (157) Psychotherapy (168) <u>Restrictions on Licensed Practice</u> (257) <u>Actual Suspension of License</u> (278)

**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: <del>Physician Exam (14)</del> <del>Psychological Examination (15)</del> <del>Psychotherapy (16)</del> <del>Drug and Alcohol Rehabilitation (17)</del> <del>Abstain from Drugs and Alcohol (19-20)</del> <del>Submit Biological Fluids (21)</del> <del>Supervision (23)</del> <del>Restricted Practice (24)</del> <del>Suspension (26)</del> <u>Additional Terms and Conditions of Probation (16-28)</u>

**PENALTIES FOR DISCIPLINARY ACTIONS**

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

**UNLICENSED PRACTICE**

Section 2538.20\* of the Business and Professions Code

MAXIMUM	<u>Revocation</u>
MINIMUM	<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

MAXIMUM	<u>License Denied</u>
MINIMUM	<u>License Issued, 2 Years Probation</u>

Standard Terms and Conditions of Probation (1-15)

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

Section 2538.33\* of the Business and Professions Code

<u>MAXIMUM</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>
<u>MINIMUM</u>	<u>Public Repeval</u>

**PRACTICING WITHOUT PROPERLY POSTING LICENSE**

Section 2532.5 of the Business and Professions Code

<u>MAXIMUM</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>
<u>MINIMUM</u>	<u>Public Repeval</u>

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

Section 2538.34 of the Business and Professions Code

<u>MAXIMUM</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>
<u>MINIMUM</u>	<u>Public Repeval</u>

**FAILURE TO DELIVER PROPER RECEIPT**

Section 2538.35 of the Business and Professions Code

<u>MAXIMUM</u>	<u>3 Years Probation</u> <u>If warranted:</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>Actual Suspension of License (28)</u>
<u>MINIMUM</u>	<u>Public Repeval</u>



**FAILURE TO MAKE PHYSICIAN REFERRAL**  
**Section 2538.36 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>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

**UNAUTHORIZED SELLING OF A HEARING AID TO A PERSON UNDER SIXTEEN(16) YEARS OF AGE**  
**Section 2538.37\* 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>Restrictions on Licensed Practice (27)</u> <u>Actual Suspension of License (28)</u>

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

<u>MAXIMUM</u>	<u>1 year suspension, stayed with 3 years probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>If warranted:</u> <u>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>
<u>MINIMUM</u>	<u>Public Repeval</u>

**THE IMPROPER OR UNNECESSARY FITTING OF A HEARING AID**  
**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>

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

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)

**REPEATED NEGLIGENT ACTS**

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)

**CRIMINAL CONVICTION**

Sections 480 and 2533(a) 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)

**OBTAINING A LICENSE BY FRAUD**

Section 2533(b) of the Business and Professions Code

MINIMUM \_\_\_\_\_ Revocation

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

Section 2533(h) 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>Actual Suspension of License (28)</u>

**FRAUD OR MISREPRESENTATION IN PRACTICE**  
Section 2533(e) 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>Psychological Evaluation (17)</u> <u>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

**EMPLOYING AN UNLICENSED PERSON**  
Section 2533(e) 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>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

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

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>Public Repeval</u>

**LETTING ANOTHER USE HIS OR HER LICENSE**  
**Section 2533(e) 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>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

**DOING ANY ACT WHICH WOULD BE GROUNDS FOR LICENSE DENIAL**  
**Section 2533(j) 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>

**VIOLATION OF SECTION 1689.6 OR 1793.02 OF THE CIVIL CODE**  
**Section 2533(k) 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>

**SALE OR BARTER OF A LICENSE OR OFFER TO SELL OR BARTER A LICENSE**  
**Section 2538.43 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>Psychological Evaluation (17)</u> <u>Actual Suspension of License (28)</u>

**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)  
Actual Suspension of License (28)

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

MAXIMUM \_\_\_\_\_ Revocation/Denial of Licensure

MINIMUM \_\_\_\_\_ Public Reprimand

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

MAXIMUM \_\_\_\_\_ 5 Years Probation

MINIMUM \_\_\_\_\_ Public Reprimand

*\*Does not apply to a Dispensing Audiologist*

**DEPARTMENT OF DEVELOPMENTAL SERVICES**

1600 NINTH STREET, ROOM 240, MS 2-13  
SACRAMENTO, CA 95814  
TDD 654-2054 (For the Hearing Impaired)  
(916) 654-1897



2

July 14, 2010

Lisa C. O'Connor, MA, Board Chair  
Alison M. Grimes, AuD, Board Vice Chair  
Department of Consumer Affairs  
Speech-Language Pathology and Audiology Board  
2005 Evergreen Street, Suite 2100  
Sacramento, CA 95815

Dear Ms. O'Connor and Ms. Grimes:

Thank you for your letter dated May 6, 2010, expressing your concerns for children entering the Regional Center and Local Education Area system after being diagnosed with a hearing loss. Your letter references the December 14, 2009, conference call during which your concerns were discussed with Julia Mullen, Deputy Director, and Rick Ingraham, Manager. The Department of Developmental Services (DDS) committed to the following three steps to address those concerns:

1. DDS would fax your letter of concern, dated September 5, 2009, to the California Department of Education (CDE) to ensure that CDE was made aware of the issues raised and that they could be addressed in CDE's instruction letter to schools regarding services to children with hearing impairment.
2. DDS would visit a recommended program in Santa Clarita that serves children with hearing loss to determine the various components of a "model system."
3. DDS would keep you both informed as to our efforts in this area.

DDS delivered your September 5, 2009, letter to Meredith Cathcart at CDE on December 16, 2009. In addition, Rick Ingraham made a personal visit on January 6, 2010, to the recommended model Santa Clarita program and met with the Special Education Local Plan Area Director, Ms. Margaret Cherene and regional center representatives to learn about what makes them successful in meeting the needs of children with hearing impairments and their families. Mr. Ingraham confirmed with them that several key factors have helped to ensure the success of the services in that area. The location and low density population of the catchment area allow for good access to an area rich in resources with low competition for services. Ms. Cherene noted that the program has experienced a very low turnover in staff and administration, leading to a

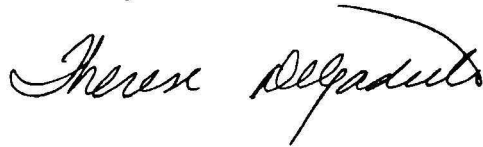
**"Building Partnerships, Supporting Choices"**

Lisa C. O'Connor  
Alison M. Grimes  
July 14, 2010  
Page two

high level of continuity of services to consumers. Also, Ms. Cherene reported that there is a strong commitment from all supporting agencies to serve children with hearing impairments and their families.

This letter confirms the steps that DDS has taken to begin addressing the concerns brought forth in your September 5, 2009, letter and during the December 14, 2009, conference call. We look forward to working with you to best serve these infants and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Delgadillo". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

TERRI DELGADILLO  
Director

cc: Julia Mullen, Deputy Director, DDS  
Rita Walker, Deputy Director, DDS  
Rick Ingraham, Manager, DDS





May 3, 2010

Terri Delgadillo, Director  
Department of Developmental Services  
1600 Ninth Street  
Sacramento, CA 95814

RE: Services to Infants and Toddlers identified as Deaf and Hard of Hearing

Dear Ms Delgadillo:

On September 9<sup>th</sup> of the last year we wrote a letter to express concern regarding the provision of services to infants and toddlers who are deaf or hard of hearing (D/HH) and who may be served by a variety of agencies, including a Regional Center. In early December of last year, you set up a conference call to discuss the contents of the September 9<sup>th</sup> letter. It was our understanding that there would be a follow-up letter from you confirming our discussion and the solutions you proposed during our discussion, but we have not heard further from you.

Recently an atretic child was referred to the UCLA craniofacial team. She was born in September 2006 and had never received audiology services until she was seen at UCLA. The child is now almost 4 years of age and has no IEP or IFSP on record. UCLA is now arranging for a bone conduction hearing aid, intervention services and a medical examination. This is the type of situation raised as a concern in our September 9<sup>th</sup> 2009 letter, and exemplifies the seriousness of such concerns.

We appreciate the time you took to speak with us last December, but we would appreciate receiving the promised follow-up letter from you. Could you please respond to the September 9<sup>th</sup> letter in writing, documenting the proposed solutions you mentioned during the December 2009 conference call?

Your attention to this matter is greatly appreciated.

Sincerely,

Lisa C. O'Connor, MA, Board Chair  
ASHA Certified Speech Language Pathologist

Alison M. Grimes, AuD, Board Vice Chair  
Board Certified Audiologist, American Board of Audiology

Cc: Dr. Mac Petersen, Chair  
Interagency Coordinating Council

# CURRENT LICENSE POPULATION

AS OF 06/30/2012

## AU / DAU

Active AU	595
Active DAU	930
Inactive	125
Renewal Hold	21
Delinquent	250

## HAD

Active	940
Inactive	52
Delinquent	134

## SLP

Active	12,020
Inactive	1,014
Renewal Hold	107
Delinquent	1,721

## HAD TEMP TRAINEES

Active	97
Inactive	2
Delinquent	9

## SLP ASSISTANTS

Active	1,529
Inactive	91
Renewal Hold	20
Delinquent	297

## HAD TEMPORARY

Active	6
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## RPE TEMP

Active	665
Delinquent	66

## HAD BRANCH OFFICE

Active	627
Delinquent	132

## AIDES

Active	181
Delinquent	94

# 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	60	117	12	40	15	26	30	29	3	22
Closed	99	131	113	172	51	130	7	44	13	18	27	39	4	29
Pending	61	88	43	103	211	450	49	104	52	124	55	115	55	107

	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	0	0
Incompleteness/Negligence	4	10	6	11	13	4	7	2	6	1	0	1	0	0
Unprofessional Conduct	14	123	19	113	34	78	17	25	5	14	12	22	0	17
Unlicensed/Unregistered Activity	16	16	7	16	9	22	5	6	2	9	2	3	0	4
Criminal Charges/Convictions	33	5	26	18	30	2	10	2	2	0	15	0	3	0
Substance Abuse	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Fraud	3	6	7	6	9	6	9	3	0	0	0	3	0	0
Non-Jurisdictional	1	5	0	0	0	3	0	1	0	1	0	0	0	1
Other	51	0	5	2	1	2	1	1	0	1	0	0	0	0
<b>TOTAL</b>	<b>122</b>	<b>165</b>	<b>72</b>	<b>166</b>	<b>97</b>	<b>117</b>	<b>49</b>	<b>40</b>	<b>15</b>	<b>26</b>	<b>30</b>	<b>29</b>	<b>3</b>	<b>22</b>

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	28	0	12	3	4	6	4	0	8
4 - 6 Months	9	8	12	31	9	15	1	5	5	3	3	4	0	3
7 - 12 Months	6	1	13	50	15	32	0	13	3	5	9	8	3	6
13 - 24 Months	2	1	27	38	6	35	0	13	2	6	3	9	1	7
25 - 36 Months	13	3	16	10	0	20	0	1	0	0	0	14	0	5

# 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	
INVESTIGATION ACTIVITY-SWORN	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	22	11	4	1	10	4	6	0	2
Closed	3	34	15	11	12	26	6	9	0	6	6	8	0	3
Pending	23	19	8	20	59	70	40	19	7	23	6	22	6	6

CLOSED-SWORN INVESTIGATION'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	0	0	4	0	0	1	0	0	0	1	0	0	0	0
4 - 6 Months	1	2	4	2	3	4	3	2	0	0	0	2	0	0
7 - 12 Months	0	20	12	2	1	9	0	4	0	2	1	3	0	0
13 - 24 Months	0	9	5	6	8	8	3	2	0	3	5	3	0	0
25 - 36 Months	2	3	1	1	0	4	0	1	0	0	0	0	0	3

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
COMPLAINT DISPOSITION & CLOSED INVESTIGATIONS	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	9	25	1	8	3	3	4	6	1	8
Information on File	21	14	29	36	5	11	0	5	0	3	4	3	1	0
Insufficient Evidence	4	8	5	10	5	8	0	2	3	5	2	0	0	1
Subject Educated	9	38	5	42	7	38	0	7	1	1	6	22	0	8
Non-Jurisdictional	0	7	0	2	3	3	0	1	1	1	2	0	0	1
Compliance Obtained	0	1	1	0	0	1	0	1	0	0	0	0	0	0
Referred to Gov't Agency	0	0	0	0	0	1	0	1	0	0	0	0	0	0
Other	9	23	17	33	3	12	1	7	0	1	2	3	0	1
Citation	34	2	17	5	4	14	4	5	0	3	0	2	0	4
Conditional Licenses	1	0	1	0	0	0	0	0	0	0	0	0	0	0
Referred to AG / DA	8	21	16	19	13	9	1	3	4	0	6	1	2	5
Mediated	0	6	1	7	2	8	0	4	1	1	1	2	0	1
<b>TOTAL</b>	<b>99</b>	<b>131</b>	<b>113</b>	<b>172</b>	<b>51</b>	<b>130</b>	<b>7</b>	<b>44</b>	<b>13</b>	<b>18</b>	<b>27</b>	<b>39</b>	<b>4</b>	<b>29</b>

## 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	6	6	0	2	2	2	2	2	2	0
Tolled	6	0	28	3	27	4	6	1	6	1	7	1	8	1
Conditional Licenses	8	0	26	0	2	0	0	0	2	0	0	0	0	0
<b>TOTAL</b>	<b>24</b>	<b>4</b>	<b>85</b>	<b>10</b>	<b>35</b>	<b>10</b>	<b>6</b>	<b>3</b>	<b>10</b>	<b>3</b>	<b>9</b>	<b>3</b>	<b>10</b>	<b>1</b>

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	14	4	5	0	3	0	2	0	4

	FY 09/10		FY10/11		FY 11/12		QTR 1		QTR 2		QTR 3		QTR 4	
AG CASES-SOI/Acc	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	7	1	3	3	0	6	1	0	3
Final Orders	7	5	3	2	11	4	0	1	2	1	6	2	3	0
Pending	11	7	23	7	73	31	21	6	19	7	18	8	15	10

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	0	0
1 - 2 Years	3	1	1	0	0	3	0	0	0	0	0	3	0	0
2 - 3 Years	0	0	1	1	3	1	0	0	0	1	2	0	1	0
Over 3 Years	1	0	0	1	7	0	0	0	2	0	3	0	2	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	3	6	0	0	0	2	1	0	2
Statement of Issues	0	0	0	1	1	1	0	0	0	0	1	0	0	1
Petition for Penalty Relief	1	0	1	0	1	0	0	0	0	0	1	0	0	0
Petition for Psychiatric Evaluation	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>4</b>	<b>2</b>	<b>7</b>	<b>3</b>	<b>10</b>	<b>4</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>3</b>

## ENFORCEMENT STATISTICS

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

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

ADMINISTRATIVE FIINAL DECISIONS	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
Revocation	0	0	0	0	1	0	0	0	0	0	0	0	1	0
Revocation, Stayed, Prob	3	1	0	1	4	1	0	0	0	0	2	1	2	0
Rev, Stayed, Prob, Susp	0	0	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	0	0
License Denied	0	2	0	0	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	0	0
Petition for Penalty Relief Granted	0	0	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	0	0
Reprimands/Reprovals	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Stipulated Settlement	1	0	0	0	6	0	0	0	2	0	2	0	2	0
ISO's Ordered	0	0	0	0	1	0	0	0	1	0	0	0	0	0
Declined by AG	2	1	0	0	1	1	0	1	0	0	1	0	0	0
Conditional License	0	1	0	0	2	0	0	0	2	0	0	0	0	0
Discipline Suspended	0	0	0	0	0	0	0	0	0	1	0	0	0	0
<b>TOTAL</b>	<b>7</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>18</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>7</b>	<b>2</b>	<b>5</b>	<b>0</b>

DECISIONS - TYPE OF VIOLATION	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
Discipline by Another State/Agency	0	0	0	0	1	0	0	0	1	0	0	0	0	0
Incompetence/Negligence	4	0	1	0	2	1	0	0	0	0	0	1	2	0
Unprofessional Conduct	0	1	0	0	2	1	0	0	0	1	1	0	1	0
Unlicensed/Unregisterd Activity	1	0	0	0	1	1	0	1	1	0	0	0	0	0
Criminal Charges/Convictions	1	3	1	0	3	0	0	0	2	0	1	0	0	0
Fraud	0	1	1	2	3	1	0	0	1	0	0	1	2	0
Other	1	0	1	0	3	0	0	0	1	0	2	0	0	0
<b>TOTAL</b>	<b>7</b>	<b>5</b>	<b>4</b>	<b>2</b>	<b>15</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>5</b>	<b>0</b>

## 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	54	9	10	6	25	8	3	1	12	5	5	2	12	0	2	3	5
DAU	946	73	20	0	12	2	14	0	0	0	0	1	2	3	6	0	0	0	0
SLP	692	734	836	66	107	73	246	38	90	56	184	58	67	71	196	66	56	88	210
SLPA - <i>(Registered)</i>	290	312	346	34	61	50	145	43	37	14	94	8	27	24	59	20	14	14	48
RPE'S	566	555	685	65	115	106	286	92	69	47	208	32	26	35	93	34	24	40	98
SLP Issued	529	513	639	53	112	104	269	91	68	47	206	32	26	35	93	30	20	21	71
AU Issued	37	42	43	12	3	2	17	1	1	0	2	0	0	0	0	4	1	19	24
AIDES - <i>(Approved)</i>	63	52	41	2	0	2	4	5	7	9	21	0	2	5	7	5	3	1	9
SLP Issued	27	24	13	1	0	0	1	1	5	3	9	0	0	1	1	0	2	0	2
AU Issued	36	28	28	1	0	2	3	4	2	6	12	0	2	4	6	5	1	1	7
CPD PROVIDERS - <i>(Approved)</i>	14	16	17	1	4	1	6	1	2	0	3	1	0	4	5	0	0	3	3
HAD Permanant	89	50	91	0	22	4	26	1	0	9	10	7	10	1	18	1	1	35	37
HAD Trainees	98	77	95	8	11	7	26	4	8	9	21	7	5	8	20	7	16	5	28
HAD Licensed in Another State	15	12	6	0	0	0	0	0	1	1	2	0	3	0	3	1	0	0	1
APPLICANTS	<i>no count</i>	<i>no count</i>	77	5	8	7	20	3	6	6	15	1	3	2	6	19	6	11	36
HAD Branch Office	192	205	192	13	20	13	46	5	16	16	37	19	11	11	41	27	17	24	68