

## **Business and Professions Code Section 651 Advertising Statutes**

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent

association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(D) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed

under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

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# Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM As of November 1, 2012

## Section 1 – Background and Description of the Board and Regulated Profession

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

### *History of the Hearing Aid Dispensers Committee*

Legislation was passed in 1970 (Chapter 1514, Statutes of 1970) that added Section 651.4 to Division 2 of the Business and Professions Code to establish the Hearing Aid Dispensers Examining Committee (Committee), under the jurisdiction of the Medical Board of California. The intent of the Committee was to prepare, grade and conduct examinations of applicants for a hearing aid dispenser's license. The Medical Board was responsible for the Committee's enforcement program including any disciplinary actions.

In 1988, legislation was passed (SB 225, Chapter 1162, Statutes of 1988), which transferred authority from the Board to the Committee to administer the enforcement program. The legislation also allowed hearing aid dispensers to use fictitious names for fitting and selling hearing aids but prohibited licensees from owning or having interest in a hearing aid dispensing business if their license had been suspended or revoked.

In 1996, SB 1592 (Chapter 441, Statutes of 1996) provided the Committee the authority to adopt, amend, or repeal regulations related to the practice of fitting or selling hearing aid devices.

During the 1997-1998 legislative session, the Committee and the Speech-Language Pathology and Audiology Board were reviewed by the Joint Legislative Sunset Review Committee (Joint Committee) where the Joint Committee raised the issue as to whether the two programs should be merged. The Joint Committee voted against the merger and it was determined that the programs should continue in existence as separate

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

entities. Two bills were introduced in 1998 (SB 1982 and AB 2658) which would have extended the regulation of hearing aid dispensers, one proposal merged the Committee with the Speech-Language Pathology and Audiology Board, while the other extended the sunset date of the Committee. Both bills failed and the Committee was sunset. The Department of Consumer Affairs (Department) assumed responsibility for the regulation of persons licensed to fit and sell hearing aids.

In 2000, legislation was chaptered creating the Hearing Aid Dispensers Bureau within the Department and converted the once Commission to an Advisory Committee made up of professional members who provided input and recommendations regarding policy and regulatory issues to the Director of the Department.

### ***History of the Speech-Language Pathology and Audiology Board (SLPAB)***

The SLPAB (formerly a Committee) was created in 1973 and enacted in 1974 under the jurisdiction of the Medical Board of California (MBC) (Chapter 5.3, Statutes of 1974, Section 2530 et seq. of the Business and Professions Code). Until as recent as 2010, the Board regulated the two professions, speech-language pathology (SLP) and audiology which are separate professions with individual scopes of practice, entry-level requirements, and descriptive titles. SLPs provide services to individuals with speech, voice or language disorders and swallowing disorders or impairments. Audiologists provide services to individuals with hearing, balance (vestibular), and related communicative disorders.

On July 1, 1999, the SLPAB was sunset and became a program under the Department due to the demise of Senate Bill 1982 (merger bill referenced above). Subsequently, Assembly Bill 124, introduced in the 1998-99 legislative session, passed and restored the SLPAB as a Board effective January 1, 2000.

While the SLPAB had been operating as an independent board for many years, the statutory amendment to remove references to the MBC was officially recorded in Section 2531 of the Business and Professions Code in 2003 (SB 2021).

### ***Merger of the Hearing Aid Dispensers Bureau and the Speech-Language Pathology and Audiology Board***

On October 11, 2009, former Governor Arnold Schwarzenegger signed Assembly Bill 1535 that merged the Hearing Aid Dispensers Bureau, Department of Consumer Affairs into the Speech-Language Pathology and Audiology Board to create the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Section 2531 Business and Professions Code), effective January 1, 2010. The newly merged Board regulates the professions of speech-language pathology, audiology, and hearing aid dispensing. Each profession is separate and distinct from the other, each having their individual scopes of practice, entry-level requirements, and professional settings, with some overlap in treated pathologies and rehabilitation. In order to adequately balance the professional expertise and public input on the Board, the governance structure of the Board comprises: two speech-language pathologists, two audiologists, one of whom must be a dispensing audiologist, two hearing aid dispensers, and a public member seat occupied by a licensed physician and surgeon, board certified in otolaryngology, all of whom are appointed by the Governor. Two other public member seats are to be

appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively. Members are appointed for a four-year terms and no member may serve more than two consecutive terms.

### ***Function of the Board***

The Board serves to protect the public through licensing and regulation of speech-language pathologists, audiologists, and hearing aid dispensers who provide speech and hearing services to California consumers. The Board sets entry-level licensing standards, which includes examination requirements that measure the licensees' professional knowledge and clinical abilities that are consistent with the demands of the current delivery systems. To ensure on-going protection of consumers of SLP, audiology, and hearing aid services, the Board enforces standards of professional conduct by investigating applicant backgrounds, investigating complaints against licensed and unlicensed practitioners, and taking disciplinary action whenever appropriate.

With the recent merger of the three professions into one regulatory board, the Board's jurisdiction has grown to regulating 10 license types:

- SLP [2530.2(d)-(g)] – licensed to provide assessment and therapy for individuals who have speech, language, swallowing and voice disorders.
- Audiologists [2530.2(j)-(l)]- licensed to identify hearing, auditory system, and balance disorders, and provide rehabilitative services, including hearing aids and other assistive listening devices.
- Required Professional Experience Temporary Licensees [2532.2(d), 2532.25, & 2532.7] - speech-language pathology and audiology applicants completing the requisite professional experience while practicing under the supervision of a license practitioner.
- Temporary licensees [2532.3 & 2538.27] – speech-language pathology, audiology, and hearing aid dispensers who qualify for a temporary license (SLP/AU – 6 mo. license; HAD's – 1 yr.) based on holding a license in another state.
- Trainees [2538.28] – allows a hearing aid dispenser applicant to work under the supervision of a licensed hearing aid dispenser for up to 18 months.
- Speech-Language Pathology Assistants (SLPAs) [2530.2(i), 2538-2538.7] - registered paraprofessionals who complete formal education and training and serve under the direction of a license speech-language pathologist.
- Speech-Language Pathology/ Audiology Aides [2532(h)&(m)] - support personnel approved to work under the supervision of a licensed professional within the same discipline. No requirement for formal education and training, however, on-the-job training must be provided.



- Branch licenses- [2538.34] – licenses issued to hearing aid dispensers authorizing the dispenser to work at additional locations.
- SLPA Training Program Approval [2538.1] – Board-approved SLPA training programs.
- Continuing Professional Development (CPD) Providers – entities approved by the Board to offer CPD courses to licensees.

The Board's licensing population is well over 21,000 individuals and entities. It is imperative that the Board balance its education, outreach, and enforcement efforts between the three professions to ensure the Board policies are current and consistent with the acceptable standard of care in each discipline.

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

The only committee designated by statute is the Hearing Aid Dispensers Committee (Section 2531.05 Business and Professions Code) that was created upon the merger of Board. The Committee's charge is to review and research practice trends and public policies regarding the fitting and selling of hearing aids and shall advise the Board on professional practice issues. The Committee's structure is specified in statute and is made up of the following Board members: the two licensed audiologists, the two licensed hearing aid dispensers, one public member, and the public member otolaryngologist.

All other committees of the Board are formed as needed and its members are appointed by the Board Chair. The following chart includes committees that meet regularly to discuss various practice issues:

<b>Table 1a. Attendance</b>			
<b>Carol Murphy</b>			
Date Appointed:	<b>April 5, 2010</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	May 26-27, 2010	Sacramento	Yes
Board Meeting	July 26, 2010	Sacramento	Yes
Board Meeting	September 14, 2010	Telephonic	Yes
Board Meeting	January 26-27, 2011	San Francisco	Yes
Board Meeting	May 19-20, 2011	San Diego	No
Board Meeting	July 15, 2011	Sacramento	Yes
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	Yes
Strategic Planning Meeting	April 19-20, 2012	Sacramento	Yes
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Alison Grimes</b>			
Date Appointed:	<b>March 22, 2010</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	March 24-25, 2010	Sacramento	Yes
Board Meeting	May 26-27, 2010	Sacramento	Yes
Board Meeting	July 26, 2010	Sacramento	Yes
Board Meeting	September 14, 2010	Telephonic	Yes
Board Meeting	January 26-27, 2011	San Francisco	Yes
Board Meeting	May 19-20, 2011	San Diego	Yes
Board Meeting	July 15, 2011	Sacramento	Yes
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	Yes
Strategic Planning Meeting	April 19-20, 2012	Sacramento	Yes
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Rodney Diaz</b>			
Date Appointed:	<b>April 5, 2010</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	May 26-27, 2010	Sacramento	Yes
Board Meeting	July 26, 2010	Sacramento	Yes
Board Meeting	September 14, 2010	Telephonic	Yes
Board Meeting	January 26-27, 2011	San Francisco	No
Board Meeting	May 19-20, 2011	San Diego	Yes
Board Meeting	July 15, 2011	Sacramento	Yes
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	Yes
Strategic Planning Meeting	April 19-20, 2012	Sacramento	No
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Deane Manning</b>			
Date Appointed:	<b>March 19, 2010</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	March 24-25, 2010	Sacramento	Yes
Board Meeting	May 26-27, 2010	Sacramento	Yes
Board Meeting	July 26, 2010	Sacramento	Yes
Board Meeting	September 14, 2010	Telephonic	Yes
Board Meeting	January 26-27, 2011	San Francisco	Yes
Board Meeting	May 19-20, 2011	San Diego	Yes
Board Meeting	July 15, 2011	Sacramento	Yes
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	Yes
Strategic Planning Meeting	April 19-20, 2012	Sacramento	Yes
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Sandra Danz</b>			
Date Appointed:	<b>April 5, 2010</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	May 26-27, 2010	Sacramento	Yes
Board Meeting	July 26, 2010	Sacramento	Yes
Board Meeting	September 14, 2010	Telephonic	Yes
Board Meeting	January 26-27, 2011	San Francisco	Yes
Board Meeting	May 19-20, 2011	San Diego	Yes
Board Meeting	July 15, 2011	Sacramento	No
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	Yes
Strategic Planning Meeting	April 19-20, 2012	Sacramento	Yes
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Monty Martin</b>			
Date Appointed:	<b>January 13, 2010</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	March 24-25, 2010	Sacramento	No
Board Meeting	May 26-27, 2010	Sacramento	No
Board Meeting	July 26, 2010	Sacramento	Yes
Board Meeting	September 14, 2010	Telephonic	Yes
Board Meeting	January 26-27, 2011	San Francisco	Yes
Board Meeting	May 19-20, 2011	San Diego	Yes
Board Meeting	July 15, 2011	Sacramento	No
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	Yes
Strategic Planning Meeting	April 19-20, 2012	Sacramento	Yes
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Jaime Lee</b>			
Date Appointed:	<b>May 3, 2011</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	May 19-20, 2011	San Diego	No
Board Meeting	July 15, 2011	Sacramento	No
Board Meeting	October 20-21, 2011	Sacramento	Yes
Board Meeting	January 13, 2012	Sacramento	No
Strategic Planning Meeting	April 19-20, 2012	Sacramento	Yes
Board Meeting	July 26-27, 2012	San Diego	Yes
Board Meeting	October 4-5, 2012	Los Angeles	Yes

<b>Table 1a. Attendance</b>			
<b>Patti Solomon-Rice</b>			
Date Appointed:	<b>September 5, 2012</b>		
<b>Meeting Type</b>	<b>Meeting Date</b>	<b>Meeting Location</b>	<b>Attended?</b>
Board Meeting	October 4-5, 2012	Los Angeles	Yes

**Table 1b. Board/Committee Member Roster**

Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Carol Murphy	04/29/05	4/5/10	01/01/13	Governor	Professional
Alison Grimes	12/04/00	3/22/10	01/01/13	Governor	Professional
Rodney Diaz	04/05/10	NA	01/01/12	Governor	Professional
Deane Manning *	03/19/10	NA	01/01/15	Governor	Professional
Sandra Danz	04/05/10	NA	01/01/12	Governor	Professional
Monty Martin	01/13/10	NA	11/30/13	Senate	Public
Jaime Lee	05/03/11	NA	11/30/13	Assembly	Public
Patti Solomon-Rice	09/14/12	NA	01/01/16	Governor	Professional
Vacancy					Professional

\* Appointed to Hearing Aid Bureau 5/29/07

**2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

The Board has not experienced a lack of quorum within the past four years. However, due to changes in the Board's governance structure, that is the transition from a board to a bureau, and back to a board during the 2007/2008 Legislative session, and the ultimate merger of the Hearing Aid Dispensers Bureau into the Speech-Language Pathology and Audiology Board in 2010, the Board has had to reschedule meetings to provide for such transitions and ensure that members were appointed prior to proceeding with scheduled public meetings. With the exception of the merger transition, which was administratively challenging, the transitional period of board to bureau was brief and therefore, did not significantly impact the Board's operations.

**3. Describe any major changes to the board since the last Sunset Review, including:**

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

A number of administrative changes have occurred within each program since both the SLPAB and the Hearing Aid Dispensers Bureau were reviewed as separate programs in 1998. Many of the operational changes relative to how these entities operated as independent programs changed once the two merged to form one Board effective January 1, 2010:

- Created a temporary website for the merged Board linking the application, licensing, enforcement, and consumer information for all three professions. The new website landing page included information

regarding the merger and explained how the changes in governance structure, regulatory oversight, and licensing provisions relative to dispensing audiologists

- In May 2010, the staff of the former Hearing Aid Dispensers Bureau transitioned to the Board office at 2005 Evergreen Street, Suite 2100. The SLPAB had relocated from Howe Avenue to the Evergreen complex in 2008.
- Transitioned all licensing, enforcement, examination, and administrative processes of the former Hearing Aid Dispensers Bureau to the Board.
- Complaint handling for hearing aid dispenser complaints transitioned from being processed by a centralized mediation unit within the Department to the Board staff in order to closely monitor complaint processing timelines and to track the nature and source of hearing aid complaints received by the Board.
- All licensing and application forms, notices, and certificates were amended to reflect the new statutory changes authorizing licensed audiologists to dispense hearing aids once the audiologist passed both the hearing aid dispenser's written and practical examinations.
- Updated the Department's data systems and established new fee codes for the dispensing audiologist license and renewal.
- October 1, 2010, the Board was given position authority through the Department's Consumer Protection Enforcement Initiative (CPEI) to hire one non-sworn investigator. The new investigator position was filled April 1, 2011, to handle the majority of the Board's investigatory and probation monitoring responsibilities. Employing an in-house investigator who has intimate knowledge of the laws and regulations governing the professions and works side-by-side with other enforcement staff has proven to be tremendously helpful in conducting focused investigations and expediting cases of significant concern.
- In January 2011, increased the hearing aid dispenser's written examination fees from \$100 to \$225 and practical examination fees from \$285 to \$500 in order to appropriately fund the examination program of the Board, including a new occupational analysis for the profession of hearing aid dispensing.
- In July 2012, the Board adopted its 2012 - 2015 Strategic Plan encompassing the goals and objectives for regulating speech-language pathology, audiology, and hearing aid dispensing. (Attachment).

- In August 2012, the Board launched a redesigned website consolidating applicant, licensing, enforcement, and consumer outreach information for three professions under one site.
- **All legislation sponsored by the board and affecting the board since the last sunset review.**

<b>Legislative Session</b>	<b>Bill</b>	<b>B&amp;P Code Sections</b>	<b>Amendment</b>	<b>Operative Date</b>
1997-1998	SB 407/ Polanco	Amended 2530.2	Authorized AUs to remove cerumen under the general supervision of an otolaryngologist.	January 1, 2009
1997-1998	AB 205/ Machado	Added 2532.6 Added 2538.1	Requiring SLPs and AUs to obtain Continuing Professional Development as a condition of license renewal.  Created the new SLPA paraprofessional licensing category.	January 1, 2009
1997-1998	SB 2238/Senate B&P	Amended 2532.2	Created a 6 month temporary license for individuals who held an unrestricted license in another state.	January 1, 2009
1999-2000	AB 545	Amended 3303, 3321, & 3325	Changed the structure of the Committee under the Medical Board, establishing it as the Commission within the jurisdiction of the DCA. The Commission was comprised of three licensed professionals and four public members	January 1, 2000
1999-2000	AB 2697	Changes to 3300 et. seq.	Dissolved the Commission and created the Hearing Aid Dispensers Bureau within the DCA. Established the Advisory Committee with the same composition of seven members: four public and three licensed professionals	January 1, 2001

<b>Legislative Session</b>	<b>Bill</b>	<b>B&amp;P Code Sections</b>	<b>Amendment</b>	<b>Operative Date</b>
1999-2000	AB 124/ Ackerman	Amended 2530.2, 2530.5, 2531, 2532.6 Added Sections 2532.7 and 2532.8	Restored the Board (Board was sunset for 6 months following the merger attempt). Made clarifying changes to supervisions requirements, CPD, and created the RPE Temporary License for applicants obtaining the required professional experience. Added an equivalency provision for applicants holding professional certification.	January 1, 2000
2001-2002	SB 349	Amended Section 2532.2	Authorizing the Board to collect all unpaid and accrued renewal and delinquency fees.	January 1, 2001
2003-2004	SB 1379	Amended 2535.2	Authorized SLPs who demonstrate competency to use instrumental procedures (flexible endoscopes) to evaluate swallowing disorders.	January 1, 2003
2003-2004	SB 2021	Amended 2531& 2534.2	Identified SLPAB as an autonomous board under the DCA. Added a fee for a license history and certification letter.	January 1, 2003
2005-2006	SB 1285/Aanestad	Amended 2530.2	Expand the scope of practice of SLPs to include suctioning procedures. Expanded the settings within which SLPs may perform flexible endoscopic procedures.	January 1, 2007
2005-2006	SB 1475	Amended 725, 800, & 2533	Added the SLPAB to the list of health boards under Sections 725 & 800. Included the deceptive advertising of an academic degree as unprofessional conduct	January 1, 2007
2005-2006	SB 232	Amended 2531	Extended the inoperative date of the SLPAB to Jan. 1, 2009	January 1, 2006



<b>Legislative Session</b>	<b>Bill</b>	<b>B&amp;P Code Sections</b>	<b>Amendment</b>	<b>Operative Date</b>
2007-2008	AB 1545	Amended 2531 & 2531.75	Extended the inoperative date of the SLPAB to Jan. 1, 2012	January 1, 2009
2009-2010	SB 821	Amended 2530.2, 2532.2, 2532.7  Added 2532.25	Changed the supervision requirements for the audiology aide to general supervisory oversight. Changed the entry-level licensing requirements for an audiologist to require doctorate education and clinical training for any new graduates after Jan. 1, 2008	January 1, 2010
2009-2010	AB 1535/ Jones	Amended 3300 et. seq., and various statutes within 2530- 2534.2	Merged the Hearing Aid Dispensers Bureau into the SLPAB- Made clarifying changes to allow audiologists to dispense hearings under the audiology license provided specified qualifications were met	January 1, 2010
2009-2010	AB 1489	Amended 2530.2, 2539.1, & 2539.6	Made clarifying changes to the merger language of AB 1535	January 1, 2011
2011-2012	SB 933	Repeal Chapter 7.5, Add Article 8 to Chapter 5.3	Merged the former Hearing Aid Dispensers' practice act, Section 3300 et. seq., into the Speech-Language Pathologists, Audiologists, & Hearing Aid Dispensers laws 2530 et. seq.	January 1, 2012

- **All regulation changes approved by the board since the last sunset review. Include the status of each regulatory change approved by the board.**

<b>Section</b>	<b>Title</b>	<b>Status</b>
CCR 1399.160-1399.160.13	Established continuing professional development requirements for SLPs, Audiologists, SLPAs	<b>Operative Emergency 4/7/99 Final Rule 9/9/99</b>
CCR 1399.127	Amended the Hearing Aid Dispensers Advertising Regulations	<b>Operative 4/10/00</b>
CCR 1399.170-1399.170.20	Training and Supervision Requirements for SLPAs	<b>Operative 4/10/01</b>
CCR 1399.131	Amended the Disciplinary Guidelines for Hearing Aid Dispensers	<b>Operative 6/11/01</b>
CCR 1399.136	Amended the Citation and Fine Regulations to Authorize the Issuance of a Citation for Failure to Comply with the Song Beverly Consumer Warranty Act	<b>Operative 6/11/01</b>
CCR 1399.115	Amendments to the Authority to Supervise a Hearing Aid Dispenser Trainee	<b>Operative 6/11/01</b>
CCR 1399.120	Added Provisions for Filing Timelines for Hearing Aid Dispensers Applicants to Apply to Take the Practical Examination	<b>Operative 6/11/01</b>
CCR 1399.157	Increased the Biennial Renewal Fees for SLPs and Audiologists	<b>Operative 12/20/01</b>
CCR 1399.153-1399.153.10	Amendments to the Required Professional Experience Temporary License Provisions	<b>Operative 2/23/03</b>
CCR 1399.155	Amendments to the Disciplinary Guidelines	<b>Operative 5/22/05</b>
CCR 1399.170.11	Amendments to SLPA Regs, Authorizing Clinical Hours to be Completed within a BA/BS program.	<b>Operative 10/9/05</b>
CCR 1399.159.01, 1399.159, 1399.159.1, 1399.159.4	Amended the Board Citation and Fine Process and Increased the Maximum Fine Amount to \$5,000	<b>Operative 4/29/06</b>
CCR 1399.152	Amended the Definition of a Board-approved institution	<b>Operative 8/3/06</b>
CCR 1399.180-1399.187	Established the Board's information Disclosure Regulations	<b>Operative 9/1/06</b>

<b>Section</b>	<b>Title</b>	<b>Status</b>
CCR 1399.156.4	Amendments to Advertising of Academic Degrees	<b>Operative 10/28/06</b>
CCR 1399.151.1 1399.170.20.1	Eliminates the Ability to Hold Dual Licensure as an SLPA & SLP	<b>Operative 12/16/06</b>
CCR 1399.151.1, 1399.160.2, 1399.160.7, 1399.160.9, 1399.160.10	Amends CPD Provisions Regarding Course Approvals, Definitions of Types of Acceptable Course Work	<b>Operative 5/6/07</b>
CCR 1399.170.11	Adds Eligibility Pathway for SLPAs to Register Based Upon Work Experience	<b>Operative 7/22/07</b>
CCR 1399.152.2, 1399.153, 1399.153.3	Amends Supervision Qualifications for those Completing the Required Professional Experience	<b>Operative 8/22/08</b>
CCR 1399.152, 1399.153.3, 1399.160.3, 1399.160.4	Amends the Board-Approved Institution Provisions to Include Doctorate of Audiology Programs, Adds Self-Study Hours for CPD, Includes Provisions for Supervision Training	<b>Operative 5/27/10</b>
1399.157, 1399.160, 1399.160.3, 1399.160.6	Established Application and Renewal Fees for a Dispensing Audiologist. Amends the Definition of Self-Study, & Establishes CPD Requirements for the Dispensing Audiologist	<b>Emergency 3/1/11</b> <b>Final Rule 1/28/12</b>

**4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).**

The SLPAB adopted examination validation reports for the practice of Speech-Language Pathology in 2001, and Audiology in 2001 and again in 2009. [\[Attachments\]](#)

The Hearing Aid Dispensers Bureau adopted the occupational analysis and examination validation reports for the practice of Hearing Aid Dispensing in 2001 and again in 2007.

In 2012, the Board reviewed and adopted the current occupational analysis and examination validation reports for the practice of Hearing Aid Dispensing. [\[Attachments\]](#)

**5. List the status of all national associations to which the board belongs.**

The Board is a member of the National Council of State Boards (NCSB) of Examiners in Speech-Language Pathology and Audiology, which is a national professional organization for state licensing boards to network and discuss practice issues. Such topics include licensing and examination changes, enforcement trends and consumer protection issues, expansion of scopes of practice, and general health care evolution.

- **Does the board’s membership include voting privileges?**

The Board is a voting member of the NCSB.

- **List committees, workshops, working groups, task forces, etc., on which the board participates.**

Up until 2010, the Board participated in the annual conference of the NCSB and either the Executive Officer and/or the Board Chair served on the Board of Directors assisting with conference planning and presenting on topics such as, reciprocity between states, judiciary responsibilities of board members, regulation of paraprofessionals, and transitions in education and training.

- **How many meetings did board representative(s) attend? When and where?**

NCSB Annual Conference/ BOD Meetings:

October	22-23	2004	Santa Fe, NM
October	21-22	2005	Cincinnati, Ohio
October	13-15	2006	Atlanta, Georgia
October	4-6	2007	San Antonio, Texas
October	17-19	2008	Vienna, Virginia
September	10-12	2009	New Orleans, Louisiana

- **If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?**

The Board does acknowledge two national examinations, one for the profession of speech-language pathology, the Praxis Examination in Speech-Language Pathology, and the other for the profession of Audiology, The Praxis Examination in Audiology, both administered by the Educational Testing Service (ETS). While the Board is not directly involved with the development, scoring, and administration of the examination, the Board does conduct periodic examination validation studies to review the content and rigor of each examination and ensure that the scope of the examination and passing score reflect the scope of practice and entry-level requirements for licensure in California. The last examination validation study conducted by the Board, with the facilitation of the Department’s Office of Professional Examination Services (OPES), was completed in 2001 for the speech-language pathology examination program, and 2009 for audiology. The Board was scheduled to conduct a new validation study for the speech-language pathology examination, however, the study was postponed due to the workload issues of the OPES.

The American Speech-Language-Hearing Association commissions the Educational Testing Service (ETS) to conduct job analysis studies which are linked to the examination validation process. The Board reviews the ETS studies during its examination validation process to determine whether the current professional expectations and job standards for SLP and audiology are congruent to those in

California. ETS completed a job analysis and validation study for the profession of audiology in 2008. The study examined the most recent changes in professional training for audiologists, which was raised from master’s training to a doctoral training model within the past six years.

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

6. Provide each quarterly and annual performance measure report as published on the DCA website.

See Attachment           

7. Provide results for each question in the customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

See Attachment           

**Section 3 –  
Fiscal and Staff**

**Fiscal Issues**

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

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

10. Describe history of general fund loans. When were the loans made? When were payments made? What is the remaining balance?

11. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

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

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

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

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

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

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

**Staffing Issues**

**14. Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

Due to state budget cuts, salary reductions, position reductions, and temporary hiring freezes, it had been difficult for the Board to recruit when positions become vacant. The Board has spent a better part of a year trying to recruit for its Office Technician position and has had to overcome many hurdles to retain mission critical staff. With the recent budget restrictions eliminating the use of all temporary help, including student assistants, the Board's full-time staff is struggling to meet the operational demands.

**15. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).**

With limited resources available to fund staff to attend training courses, most staff development occurs in-house with management providing staff opportunities for professional growth such as project management, establishing and monitoring performance measures, and cross-training between licensing and enforcement. However, approximately \$850 is spent on training staff development courses annually.

In the past four years staff has attended the following courses:

- Analysts*- Completed Staff Work, Intro to Critical Thinking, Excel
- Non-sworn Investigator* – National Certified Inspector Training, Regulatory Investigative Techniques
- Program Manager*- Project Management, Regulations Training, Legislative Bill Analysis, Enforcement Academy

## Section 4 – Licensing Program

### **16. What are the board's performance targets/expectations for its licensing<sup>2</sup> program? Is the board meeting those expectations? If not, what is the board doing to improve performance?**

The Board's established internal performance expectations are that all applications are processed within four weeks and upon approval of the application and supporting documents, a provisional license or permanent license is issued. In addition, staff is expected to return any phone call or email within twenty-four hours of receipt of an inquiry. Certain supporting documents, primarily those that trigger the issuance of a license, are processed within ten days of receipt. Currently, the Board is not meeting its four week internal processing timelines for new applications. However, staff remains vigilant in responding to inquiries within twenty-four hours, and makes a concerted effort to process any outstanding supporting documents within the ten-day timeframe.

The following steps have been implemented to reduce licensing process times:

- Employed an error detection preliminary review of all applications received by the Board. Applicants are notified immediately if forms are incomplete or the applicant has submitted the wrong form.
- Redesigned the application packages that now include an applicant checklist and all required supporting forms for licensure. All forms have been updated and redesigned for clarity to ensure the accuracy of the requested information.
- Collected email addresses from applicants and began using email communication to expedite informing applicants of their application status or to request outstanding documents.
- Eliminated manually recording examination data in applicant files- Data is entered into the Department's Applicant Tracking System.
- Implemented mandatory overtime for licensing staff.
- Recruiting to fill an Office Technician vacancy. Existing licensing staff has been forced to handle administrative duties as well as the full-time workload of processing applications and issuing new licenses. Once additional staff is hired and trained, licensing staff can focus solely on the licensing workload.

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<sup>2</sup> The term "license" in this document includes a license certificate or registration.



**17. Describe any increase or decrease in average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

In the past three years, the Board has experienced a 34% increase in applications received and a 19% increase in the total number of licenses issued. Current application processing and license issuance timelines average about eight weeks. The growth in the licensing population has substantially contributed to the increase in the Board's application licensing processing timelines. In addition, when the Hearing Aid Dispensers Bureau merged with the SLPAB, only one of the two Bureau licensing staff was retained. The licensing analyst that did transition to the Board also coordinated the hearing aid dispenser's examination program, so the staff resources devoted to hearing aid dispensers licensing was about a .75 position. As such, when the licensing programs were merged, there was an increase in workload for all licensing staff.

One can deduce from the percentage increase in applications received versus the percentage of licenses issued that there is a greater number of pending applications with the Board. Since it is a priority of the Board to meet its internal performance measures and place licensees in the workforce as quickly as possible, a number of process efficiencies have been implemented (see question 16 above). In addition, the Board is actively recruiting for one additional full-time staff person, to serve as the Board's administrative assistant. Recruiting another full-time staff person will help to alleviate the current licensing backlogs, and reduce overall processing timelines.

In 2012, the Board submitted a BCP concept paper requesting additional staff to assist with its licensing program responsibilities. The concept paper was denied. However, the Board plans to revisit the staffing needs next fiscal year.

**18. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?**

The last three year average for the number of licenses issued is 2,100. The last three year average for the number of renewals issued is 8,288.

**Table 6. Licensee Population**

		FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Audiologist	Active	1508	563	622	595
	Out-of-State	109	113	126	126
	Out-of-Country	7	8	6	5
	Delinquent	275	262	226	250
Dispensing Audiologist	Active	na	946	911	930
	Out-of-State	na	na	na	na
	Out-of-Country	na	na	na	na
	Delinquent	na	na	na	na
Speech-Language Pathologist	Active	10,655	11,028	11,349	12,020
	Out-of-State	940	924	926	1082
	Out-of-Country	22	27	30	35
	Delinquent	1725	1719	1727	1721
Speech-Language Pathologist Assistant	Active	893	1104	1304	1529
	Out-of-State	23	30	24	32
	Out-of-Country	3	1	0	0
	Delinquent	129	164	225	297
Required Professional Experience	Active	584	605	608	665
	Out-of-State	54	53	48	54
	Out-of-Country	1	0	1	0
	Delinquent	156	118	58	66
Aide	Active	199	221	215	181
	Out-of-State	1	5	6	4
	Out-of-Country	1	0	0	0
	Delinquent	43	18	51	94
Continuing Professional Development Provider	Active	154	157	161	161
	Out-of-State	23	21	19	18
	Out-of-Country	1	1	1	1
	Delinquent	3	1	0	2
Hearing Aid Dispenser	Active	1774	1476	932	938
	Out-of-State	43	50	39	44
	Out-of-Country	2	1	1	0
	Delinquent	201	196	145	134
Hearing Aid Dispenser Trainee	Active	108	94	83	97
	Out-of-State	0	1	0	0
	Out-of-Country	0	0	0	0
	Delinquent	97	42	24	9
Hearing Aid Dispenser Temporary	Active	13	16	12	6
	Out-of-State	1	3	0	0
	Out-of-Country	0	0	0	0
	Delinquent	6	4	2	0
Hearing Aid Dispenser Branch License	Active	614	588	601	627
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	125	106	123	132

## Licensing Data by Type

Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times			
					Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out	
<b>EXAMS</b>											
HAD Written	161	NA	166	NA	#	#	#	#	#	#	21
HAD Practical	181	181	181	89	#	#	#	#	#	#	21
<b>LICENSES</b>											
AU	26	#	0	43	7	#	#	#	#	#	45
AUT	2	#	0	0	1	#	#	#	#	#	45
DAU	0	#	#	946	#	#	#	#	#	#	#
SLP	236	#	4	691	24	#	#	#	#	#	45
SPT	0	#	0	0	0	#	#	#	#	#	45
SLPA	305	#	5	290	22	#	#	#	#	#	77
RPE	569	#	7	568	8	#	#	#	#	#	41
AIDE	48	#	5	53	0	#	#	#	#	#	45
CPD	16	#	0	15	1	#	#	#	#	#	30
HAD	89	#	68	89	67	#	#	#	#	#	10
HAD Trainee	97	#	0	94	3	#	#	#	#	#	21
HAD Temp	19	#	0	16	1	#	#	#	#	#	21
HAD Branch	192	#	0	192	0	#	#	#	#	#	10
<b>RENEWALS</b>	<b>*Board</b>		<b>*Board</b>		<b>*Board</b>						<b>*Board</b>
AU	94	#	94	855	94	#	#	#	#	#	7
DAU	3	#	3	NA	3	#	#	#	#	#	7
SLP	875	#	875	5231	875	#	#	#	#	#	7
SLPA	61	#	61	362	61	#	#	#	#	#	7
CPD Provider	15	#	15	70	15	#	#	#	#	#	7
HAD	150	#	150	1364	150	#	#	#	#	#	7
HAD Branch	46	#	46	434	46	#	#	#	#	#	7

\* Optional. List if tracked by the board.

\*\* New license type; 946 AU licenses converted to DAU license during this FY.

# - Data not tracked by board.

NA – Not Applicable

\*Board – Renewal applications processed by board.

## Licensing Data by Type

Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
					Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
<b>EXAMS</b>										
HAD Written	155	NA	155	NA	#	#	#	#	#	21
HAD Practical	179	179	179	50	#	#	#	#	#	21
<b>LICENSES</b>										
AU	29	#	1	57	26	#	#	#	#	56
AUT	2	#	0	2	1	#	#	#	#	56
DAU	#	#	#	78	#	#	#	#	#	#
SLP	268	#	2	734	110	#	#	#	#	56
SPT	1	#	1	1	2	#	#	#	#	56
SLPA	349	#	2	312	26	#	#	#	#	85
RPE	586	#	3	513	18	#	#	#	#	53
AIDE	48	#	12	52	0	#	#	#	#	56
CPD	15	#	0	15	0	#	#	#	#	30
HAD	51	#	25	50	40	#	#	#	#	10
HAD Trainee	77	#	2	77	1	#	#	#	#	21
HAD Temp	21	#	0	12	0	#	#	#	#	21
HAD Branch	187	#	0	205	0	#	#	#	#	10
<b>RENEWALS</b>	<b>*Board</b>		<b>*Board</b>		<b>*Board</b>					<b>*Board</b>
AU	41	#	41	306	41	#	#	#	#	7
DAU	88	#	88	426	88	#	#	#	#	7
SLP	959	#	959	5304	959	#	#	#	#	7
SLPA	104	#	104	530	104	#	#	#	#	7
CPD Provider	12	#	12	56	12	#	#	#	#	7
HAD	122	#	122	888	122	#	#	#	#	7
HAD Branch	95	#	95	450	95	#	#	#	#	7

\* Optional. List if tracked by the board.

# - Data not tracked by board.

NA – Not Applicable

\*Board – Renewal applications processed by board.

### Licensing Data by Type

Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
					Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
<b>EXAMS</b>										
HAD Written	197	NA	197	NA	#	#	#	#	#	21
HAD Practical	114	114	114	91	#	#	#	#	#	21
<b>LICENSES</b>										
AU	33	#	1	55	47	#	#	#	#	59
AUT	1	#	0	1	0	#	#	#	#	59
DAU	#	#	#	20	#	#	#	#	#	#
SLP	431	#	9	911	0	#	#	#	#	59
SPT	0	#	0	0	0	#	#	#	#	59
SLPA	422	#	0	346	53	#	#	#	#	61
RPE	803	#	8	667	31	#	#	#	#	58
AIDE	49	#	4	44	1	#	#	#	#	58
CPD	17	#	0	16	0	#	#	#	#	30
HAD	91	#	2	91	66	#	#	#	#	10
HAD Trainee	97	#	0	94	4	#	#	#	#	21
HAD Temp	6	#	0	6	1	#	#	#	#	21
HAD Branch	192	#	0	192	0	#	#	#	#	10
<b>RENEWALS</b>	<b>*Board</b>		<b>*Board</b>		<b>*Board</b>					<b>*Board</b>
AU	36	#	36	407	36	#	#	#	#	7
DAU	96	#	96	526	96	#	#	#	#	7
SLP	1105	#	1105	5658	1105	#	#	#	#	7
SLPA	118	#	118	531	118	#	#	#	#	7
CPD Provider	15	#	15	70	15	#	#	#	#	7
HAD	163	#	163	901	163	#	#	#	#	7
HAD Branch	104	#	104	495	104	#	#	#	#	7

\* Optional. List if tracked by the board.  
 # - Data not tracked by board.  
 NA – Not Applicable  
 \*Board – Renewal applications processed by board.

<b>Table 7b. Total Licensing Data</b>			
	FY 2009/10	FY 2010/11	FY 2011/12
<b>Initial Licensing Data:</b>			
Initial License Applications Received	1599	1634	2142
Initial License Applications Approved	#	#	#
Initial License Applications Closed	89	48	24
Licenses Issued	2051	2108	2443
Initial Exam Applications Received	347	334	311
Initial Exam Applications Approved ( <i>Practical Exam Only</i> )	181	179	114
Initial Exam Applications Closed	347	334	311
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)	134	224	203
Pending Applications (outside of board control)*	#	#	#
Pending Applications (within the board control)*	#	#	#
Pending Exam Applications (total at close of FY)	#	#	#
Pending Exam Applications (outside of board control)*	#	#	#
Pending Exam Applications (within the board control)*	#	#	#
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete)	36	43	42
Average Days to Application Approval (incomplete applications)*	#	#	#
Average Days to Application Approval (complete applications)*	#	#	#
Average Days to Exam Approval (All – Complete/Incomplete)	14	14	14
Average Days to Exam Approval (incomplete applications)*	#	#	#
Average Days to Exam Approval (complete applications)*	#	#	#
<b>License Renewal Data:</b>			
License Renewed	8316	7960	8588
* Optional. List if tracked by the board.			

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

The Board requires primary source documentation for any educational transcripts, clinical experience records, license verification from other states, and professional certifications. The aforementioned documents must be submitted to the Board by the originating source and must bear an official seal or authenticating stamp. In addition, applicants for licensure as SLPs or audiologists must complete an externship or required professional experience (RPE). Such experience is completed under a provisional license, the Temporary RPE License, which enables individuals to work under limited supervision for a period of one year full-time or two years part-time. The externship experience is recorded on the Board's RPE Verification Form, which is

completed by an approved licensed or certified (if completed in an exempt setting) supervisor. The RPE supervisor is responsible for certifying the completion of the requisite hours of experience, as well as determining whether the RPE licensee is competent to practice independently. If such competency cannot be established, a supervisor may request an extension of the Temporary RPE License under B&P Code Section 2532.7 to enable the RPE licensee to gain additional work experience and guidance in noted areas of weakness.

Aside from the information/documentation provided above, all other information included on the application is self-certified, wherein the applicant signs the document under penalty of perjury that the information submitted is true and correct.

**a. What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?**

Aside from the mandatory fingerprinting process as described below, applicants are required to self-report prior discipline on the license applications. The Board provides applicant's with a standardized reporting form that must be submitted with the application should an applicant have a reportable action. The use of the standardized form helps to ensure that the Board receives a thorough account of any incident that may have occurred. Reportable actions include: any pending or prior disciplinary action taken, investigations, or charges filed against a speech-language pathology, audiology, hearing aid dispensing, or other healing arts licensee by a state or federal government entity; the denial of a license to practice in a healing arts profession; surrendering of a healing arts license; or, been convicted of, or pled nolo contendere to any offense, misdemeanor or felony of any state, the US or a foreign country, (except violations of traffic laws resulting in fines of \$300 or less). The reporting form provides instructions for the applicant to include an explanation of the incident/action, and to include any relevant court documents, arrest records, disciplinary documents, and compliance records.

Also, national professional organizations and state licensing agencies across the country have an established system of reporting professional disciplinary action to other state licensing agencies where a subject individual may seek licensure. In addition, the Board receives reports from other state agencies, malpractice insurers, and hospitals regarding non-compliance and standard of care issues.

**b. Does the board fingerprint all applicants?**

All applicants are required to submit to Department of Justice (DOJ) and Federal Bureau of Investigation fingerprinting. For applicants residing in California, it is mandatory [pursuant to Penal Code 11077.1(a)] that applicants submit themselves to the (DOJ) Livescan process. This electronic process efficiently searches both state and national law enforcement databases for any prior arrests and conviction history of a pending applicant and notifies the Board of the findings within approximately 48 hours.

**c. Have all current licensees been fingerprinted? If not, explain.**

Yes, all licensees have been fingerprinted. The SLPAB and the Hearing Aid Dispensers Bureau began fingerprinting their applicants upon inception of their respective licensing programs. The Board is not aware of any licensees that have not been fingerprinted.

**d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?**

The Board reports disciplinary actions taken against licensees to the Federal National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB). Passage of Affordable Care Act in 2010 called for the elimination of duplication between the two Data Banks. As a result, the HIPDB ceased operating and all data transferred to the NPDB database. Subsequently, the Board submits a single report to the NPDB. However, the Board does not currently query the NPDB prior to issuing or renewing a license because of the fiscal impact.

The Board is requesting the Senate Business and Professions and Economic Development Committee's assistance with legislation that would require applicants to obtain an *information disclosure* report from the NPDB by requesting an *individual self-query*. The NPDB will provide the applicant with a notification indicating that either no information exists in the Data Bank or an informational report submitted by reporting organizations, i.e., state licensing boards, health care entities, insurance providers, etc, is provided. Applicants who indicate they currently hold, or previously held, a health care license in another state would be required to submit an NPDB *information disclosure* report to the Board prior to licensure.

**e. Does the board require primary source documentation?**

See response in #19.

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

Hearing Aid Dispensers

Pursuant to Business and Professions Code Section 2538.27, applicants applying for a license in California and who possess a valid license in another state (or states) for two or more years may apply for a temporary license. The temporary license is valid for up to 12 months and allows applicants to immediately begin practice in California while preparing for the written and practical examinations.

Currently, there are no legal provisions for granting a license or temporary license to an individual who practiced as a hearing aid dispensing in another country.



## Speech-Language Pathologist/Audiologist

Section 2532.3 of the Business and Professions Code allows an individual who holds an unrestricted license in another state or territory of the United States to obtain a temporary license for a period of six months. The temporary license authorizes the out-of-state applicant to begin work almost immediately while all other required documents and supporting information are being transmitted to the Board for review. Once all licensing information has been submitted, reviewed and approved, the individual is eligible for a permanent license. The statute authorizes the Board to renew the temporary license one time if extenuating circumstance surrounding the individual's ability to complete the license application exists and if the individual has submitted an application to seek permanent licensure.

Business and Professions Code Section 2532.8, deem that a person who holds the national Certificate of Clinical Competence in speech-language pathology or audiology, issued by the American Speech-Language-Hearing Association's (ASHA) Council for Clinical Certification, to have met the educational and experience requirements set forth in licensing provisions. Since greater 97% of SLPs, and to a much lesser degree audiologists (many audiologists have transitioned to seeking national certification through the American Board of Audiology), who relocate from other states to apply for licensure in California hold national certification through ASHA, the equivalency provision all but extinguished the need for the six-month temporary license for out-of-state applicants. However, after experiencing a number of situations where the issuance of the national certification was awarded to individuals that may not have met licensing examination requirements or may have obtained such qualifications in violation of California licensing provisions, it became clear to the Board that the equivalency provisions should not be absolute. As such, the Board has the authority to withhold the issuance of the license in such cases where one holds national certification, but the issuance of such certification is suspect; that is, the Board has reason to believe that the individual may not possess the required licensing qualifications. Amendment to Section 2532.8 occurred during the 2001-2002 legislative session under SB 1379, Stats 2002. Existing provisions authorize the Board to investigate and verify that an individual has met the requisite equivalency standards.

Business and Professions Code Section 2532.2 and CCR Section 1399.152.1 includes an equivalency pathway for internationally trained applicants. The regulations require that in lieu of a master's degree from an accredited university, an applicant may submit evidence of completion of at least 30 semester units acceptable toward a master's degree while registered in a degree program in speech-language pathology or audiology. The internationally trained applicant must have their educational transcripts evaluated by an approved transcript evaluation service. The service provides the Board with a detailed course-by-course description of the courses taken and the academic units and clinical hours earned. The report also provides a conversion of the foreign grading scale and credit system into the U.S. grading scale, and an equivalency of the degree conferred at the international institution to that which would be earned in the U.S.

The following services are recognized by the Board:

- Academic & Credential Records, Evaluation & Verification Service
- A2Z Evaluations, LLC
- Education Evaluators International
- Educational Records Evaluation Service, Inc.
- Foreign Educational Document Service
- International Consultants of Delaware, Inc.
- International Institute of California

Once the Board receives an application and the transcript evaluation report, the transcripts and the evaluation report are sent to a Board-appointed expert reviewer. This application review step was added in 2008; after the Board received a number of inconsistent evaluation reports from the evaluation services and decided that a more thorough and consistent review of course content would be better achieved by an expert in the field. The expert-reviewer must determine whether the course content is consistent with that offered in an U.S. accredited speech-language pathology/audiology program, and whether the minimum numbers of graduate units or upper-division courses have been obtained. If the education and clinical training is deemed equivalent, the applicant may apply for the Temporary Required Professional Experience (RPE) License, and complete the requisite 36-weeks (full-time) or 72-weeks (part-time) professional experience under the supervision of a licensed SLP or audiologist. The applicant must also take and pass the required national professional examination in order to be eligible for a permanent license.

As mentioned throughout this report, the Board has seen a steady increase in its application volume. A notable contributing factor is an increase in internationally trained applicants applying for licensure as SLPs. [It should be noted, that pursuant to the changes in entry-level licensing requirements for audiologists, that being doctoral education (B&P Code Section 2532.25), the Board is not aware of an international audiology training program that offers equivalent training.] Because of the distinctive role SLPs play in the assessment, diagnosis and remediation of speech-language disorders across environments and ages, it is crucial that internationally trained SLPs have the equivalent training and English language proficiency of nationally trained SLPs who have graduated from accredited universities. After receiving complaints regarding professional competency issues of internationally trained licensees, the Board examined their licensing process for evaluating internationally trained applicants and determined that a more thorough and consistent review of the academic training should be performed by experts within the profession. As such, the Board acquired subject matter experts to carefully evaluate the academic and clinical training of internationally trained applicants.

The Board is also considering adopting a standardized English language proficiency exam to be taken by internationally trained SLPs applying for licensure. Since the research involves evaluating an existing English-language proficiency examination, the

Board is working closely with the Department's Office of Professional Examination Services.

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

The Board submits No Longer Interested (NLI) notifications to DOJ when a license status is canceled, deceased, revoked or surrendered, and when an application is deemed abandoned. The NLI notifications are faxed or mailed, depending on the volume of data being submitted to DOJ.

In 2009, the DCA Office of Information Services implemented a process which prepared files and performed secure file transfers of NLI data to DOJ electronically via the Consumer Affairs System (CAS). Unfortunately, the data extracted by DCA did not match up with the DOJ's records, and the automated NLI process was suspended in May 2011. As such, the Board resumed the process of reporting the data manually. Quarterly, staff obtains CAS reports via the Department's Intranet for the "Updated to Cancelled License Report." The information is then submitted by fax to DOJ with the NLI prescribed form.

The Board does not have a backlog in this area and it is anticipated that the BreEze system will accurately capture NLI data so electronic notifications may resume.

**Examinations**

<b>Table 8. Examination Data</b>				
<b>California Examination (include multiple language) if any: Hearing Aid Dispensers</b>				
<b>Written/Practical</b>				
License Type		<b>HAD</b>	<b>HAD</b>	
Exam Title		<b>Written</b>	<b>Practical</b>	
FY 2008/09	# of 1 <sup>st</sup> Time Candidates	140	77	
	Pass %	44%	31%	
FY 2009/10	# of 1 <sup>st</sup> Time Candidates	115	41	
	Pass %	51%	23%	
FY 2010/11	# of 1 <sup>st</sup> Time Candidates	121	66	
	Pass %	53%	37%	
FY 2011/12	# of 1 <sup>st</sup> time Candidates	125	47	
	Pass %	32%	41%	
Date of Last OA		2012	2012	
Name of OA Developer		OPES/Board	OPES/Board	
Target OA Date		2017	2017	

National Examination (include multiple language) if any: Speech-Language Pathology/ Audiology				
License Type		SLP	AU	
Exam Title		Praxis SLP	Praxis AU	
FY 2008/09	# of Candidates	651	48	
	1 <sup>st</sup> time Candidates Pass %	93.70	93.75	
	Pass %	95.70	95.56	
FY 2009/10	# of Candidates	644	46	
	1 <sup>st</sup> time Candidates Pass %	93.79	93.48	
	Pass %	96.64	93.48	
FY 2010/11	# of Candidates	695	45	
	1 <sup>st</sup> time Candidates Pass %	94.82	95.56	
	Pass %	96.93	95.56	
FY 2011/12	# of Candidates	594	41*	
	1 <sup>st</sup> time Candidates Pass %	94.78	73.17*	
	Pass %	95.91	80.49*	
Date of Last OA		1999	2008	
Name of OA Developer		ETS	ETS	
Target OA Date		2014	Unknown	
*New Audiology Test Instituted				

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

Hearing Aid Dispensers

Written exams and the practical exams are developed, maintained and evaluated with facilitation by OPES and in collaboration with licensed and practicing, hearing aid dispensers & dispensing audiologists.

The written hearing aid dispenser's examination is administered by the exam contractor PSI and assesses an applicant's knowledge and abilities as follows:

- Evaluating & interpreting audiometric test results
- Assessing client history & hearing ability (through audiometric testing)
- Selecting characteristics of hearing aids & evaluating them
- Fitting a hearing aid & providing the instructions on care & use
- Troubleshooting & evaluating hearing aids.

The practical exam is required by law to be administered at least twice a fiscal year. Typically, the Board administers the examination 3-4 times per year to accommodate applicants interested in entering the field. The practical exam includes some components of the written examination, but requires actual demonstration of the

knowledge and techniques for using instruments and equipment necessary for the fitting and selling of hearing aids.

OPES facilitates on-going examination development workshops where subject matter experts (licensed hearing aid dispensers and dispensing audiologists) review and update both the written and practical examinations. Approximately, every 5 years an occupational analysis and examination validation study is conducted by OPES, on behalf of the Board. The most recent study was completed in 2012.

#### Speech-Language Pathologists/Audiologists

The Board does not administer a state licensing examination for SLPs or audiologists. The national examination, the Praxis Series Test in Speech-Language Pathology, and the Praxis Series Test in Audiology are administered by the Educational Testing Service (ETS). Both of the national examinations are reviewed and validated by the DCA's OPES. (See validation information under question #5 above regarding the use of a national examination).

The Board has worked with both ETS and ASHA regarding on-going examination development and modification. ASHA representatives have stated that they are continually working with ETS to update the national examinations' content to reflect the evolving practices of SLP and audiology. As stated throughout this report, the need for the transition to doctoral training in audiology stemmed from the notable advancement in professional responsibilities of the licensed audiologist in the health care industry. While continual modification of specific test questions and content is an on-going examination development process, an entirely new test was developed by ETS, on behalf of ASHA, for the Praxis Series Test in Audiology in 2011. The new test reflects the changes in the field, especially changes in technology and the availability of technologies. To that end, the Board must work with OPES to evaluate the new examination in audiology, in order to determine whether it's a valid measure for the scope of practice of audiology in California. Also, the Board must secure funding to contract with OPES to conduct a validation study for the practice of SLP, as the last occupational analysis/validation study was in 2001.

#### **23. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data)**

However, Table 8 does provide for pass rates on retakes for the hearing aid dispensers examinations. The pass rates for SLPs and Audiologists reflect first time test takers and highest test scores.

#### **24. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?**

##### Hearing Aid Dispensers

As of May 2000, the hearing aid dispenser's written examination is administered as a computer based test. The Board currently contracts with the examination administrator,

PSI. PSI handles the registration, scheduling, candidate handbook, eligibility notification, and exam administration, scoring and scoring reporting for the Board. There are 14 test centers located throughout the state and computer based tests are administered six days a week, with the exception of specified holidays.

### Speech-Language Pathology

The ETS does offer the Praxis Series Test for Speech-Language Pathology as a computer based test. The test is administered during specific testing windows where are typically 5-day periods, either every month, or every other month at 35 different testing centers throughout the state.

### **25. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

Some professionals argue that license reciprocity should be granted to applicants who hold a clear and valid license in another state. Currently, these applicants may apply for a 6-month temporary license and submit a letter of good standing from the state of origin, and attain DOJ/FBI fingerprint clearance. However, the temporary license holder must produce all other requisite academic/clinical supporting documents in order to be issued a permanent license. Professionals argue that the licensing requirements of most states are comparable and it is redundant, unnecessary, and burdensome to the licensed professionals to have to reproduce evidence of satisfactory education and training when moving from one state to another.

The Board is aware of slight differences in the licensing requirements of other states. However, of greater concern is the process by which other states collect and verify information received by its applicants. Further research is necessary in order for the Board to consider a blanket reciprocity provision.

### **School approvals**

### **26. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?**

CCR Section 1399.152 defines Board approved institutions. While the Board has the authority to approve the professional training programs awarding graduate or doctorate degrees in speech-language pathology or audiology, it does not exercise such authority as the Board does not have the expertise or staff resources to serve as an accrediting body for professional training programs. Instead, the Board recognizes the accreditation of two professional accrediting organizations, the Council of Academic Accreditation, which is a subsidiary of ASHA and accredits both speech-language pathology and audiology programs, and the relatively new accrediting body, the Accreditation Commission for Audiology Education (ACAE) which accredits professional doctoral programs in Audiology.

The Board does independently review SLPA training programs. These programs are associates' of arts or science programs. (Individuals with an undergraduate degree in communication disorders and sciences may qualify for SLPA registration; however, the undergraduate program does not require independent review and approval by the Board). CCR Sections 1399.170.4-1399.170.10 provide for the institutional and program requirements that must be met in order for the program to be awarded Board approval. The Board employs a Retired Annuitant, who is classified as an Educational Specialist, to review the applications and supporting documentation for SLPA programs. The Educational Specialist makes recommendations to Board staff regarding program approval and also serves as the lead for program site visits. The BBPE does not approve the professional training programs for SLP or audiologists.

**27. How many schools are approved by the board? How often are schools reviewed?**

The Board has approved seven SLPA programs. Schools may be reviewed or audited at any time; however, the Board only conducts subsequent site reviews for an approved school if there are concerns raised regarding the administration of the SLPA program.

**28. What are the board's legal requirements regarding approval of international schools?**

There are no specific legal requirements for the Board to approve international schools.

**Continuing Education/Competency Requirements**

**29. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.**

Speech-Language Pathologists, Audiologists, Dispensing Audiologists, & Speech-Language Pathology Assistants

Assembly Bill 205, Ch. 1058, effective January 1, 1999, established the requirement that all professionals licensed and registered by the Board must engage in continuing professional development (CPD) and learning that is related to the professions of SLP or audiology. Business and Professions Code Section 2532.6(b) was adopted into law and provided that after January 1, 2001, the Board shall not renew any license or registration unless the licensee has certified to the Board that he or she has completed the required number of CPD hours established by the SLPAB in the preceding two years.

In 1999, regulations were adopted (CCR Article 11 Sections 1399.160-1399.160.13) specifying the CPD requirements in terms of number of requisite hours that must be obtained, the type of coursework that is applicable, provider qualifications, record retention and exemption criteria.

In 2004, the SLPAB initiated a statutory change, which amended Section 2532.6 and provided the SLPAB the authority to approve individual courses as well as providers. At the time the SLPAB believed that authority for the Board to approve individual courses, if necessary, to alleviate confusion regarding the type of CPD that is deemed applicable to license renewal requirements. To date, the Board has not instituted a mandatory course approval process for CPD for SLP and audiology.

Currently, licensed SLPs and non-dispensing audiologists are required to complete twenty-four hours of CPD from a Board-approved provider during their preceding two-year license renewal cycle. The term "Board-approved providers" refers to entities directly approved by the Board and entities explicitly recognized in statute because of their comprehensive educational review program for the respective professions. SLPAs are also required to complete CPD every two years; however, the 12 hours required of SLPAs do not have to be obtained by Board-approved providers. Instead the SLPA supervisor serves as a professional development coordinator for the SLPA and assists the paraprofessional in developing a plan to complete the required hours through attendance at state or regional conferences, workshops, or formal in-service presentations.

CPD requirements allow for a specified number of self-study courses, related coursework which may include more general medical or educational course offerings, and indirect client care courses which cover legal or ethical issues, managed care issues, consultation, etc.

In 2011, the CPD requirements were amended to include provisions for the new license type, dispensing audiologist, (CCR Section 399.160.3) requiring dispensing audiologist to obtain 12 hours for each renewal with at least 50% of the CPD in hearing aid related course work and the other 50% in courses directly relevant to the practice of audiology. The amended regulations also included a provision requiring Board-approval for any courses related to the dispensing of hearing aids as offered by hearing aid manufacturers. In this way, the Board could restrict courses where the primary focus was marketing and sales as opposed to professional development. Regulation changes (CCR Section 1399.157) also included changing the renewal cycle for dispensing audiologists from a 2-yr to a 1-yr renewal cycle to align the license with the hearing aid dispenser's license renewal cycle and associated fees (B&P Section 2534.2). As such, some licensees were in a transitional phase where the two-year CPD renewal requirements applied (24 hours of CPD), while others were subject to an annual renewal requiring 12 hours of CPD. All dispensing audiologists should be transitioned to the annual renewal cycle by 2013.

**a. How does the board verify CE or other competency requirements?**

Certification of completion of the required CPD is documented on the license renewal form, which includes a statement of compliance that must be signed by the licensee. Subsequent random audits are performed by the Board wherein actual course completion documents are requested of the licensees to verify the statements of compliance. Failure by the licensee to produce the requested documentation can result in the SLPAB issuing a citation and fine against the licensee.



**b. Does the board conduct CE audits on its licensees? Describe the board's policy on CE audits.**

The SLPAB began conducting annual CE audits on its licensees in Spring of 2003, and conducted CE audits annually up until 2010 (staff vacancy in licensing/CE program prevented the Board from conducted audits in 2011/2012). CE audits of hearing aid dispensers were implemented by the former Bureau in 1980 and were also conducted on annual basis up until 2006, when the Bureau underwent management changes and staff reductions. Prior to 2006, the Bureau contracted with a vendor to manage a specialized automated data system designed to track CE hours and conduct CE audits. Unfortunately, the automated system was not supported by DCA's IT program and the Bureau was unable to secure future contracts with the vendor for ongoing use of the automated system.

Currently, the DCA assists the Board with an automated random selection of at least 5% of licenses from each licensing category. The licensees are notified of the selection and are asked to produce course completion documents for the renewal cycle being audited. CCR Section 1399.160.12 requires licensees to maintain records of course completion for a period of at least 2 years from the expiration of their last renewal. The course completion documents are review by Board staff to determine compliance with the CPD requirements in terms of total number of hours obtained, approved provider status, and whether the course content is applicable to the profession. Past audit results show an 85% overall compliance rating by licensees subject to the CE audits.

**c. What are consequences for failing a CE audit?**

Licensees who fail the CE audit may be subject to citation and fine depending upon the particular facts of the case. For example, if a licensee has completed the requisite number of course hours, but may have attended a course that was not acceptable, the licensee may be required to cure the deficiency as opposed to imposing a more punitive action. However, if a licensee fails to participate in CE, the licensee would receive a citation and fine and must cure the deficiency and make-up the coursework in a specified timeframe.

**d. How many CE audits were conducted in the past four fiscal years? How many fails?**

The Board has been unable to conduct CE audits in past two years due to staffing reductions and recruitment challenges. However, CE audits were conducted for SLPs, audiologists, and SLPAs on an annual basis prior to 2010. From 2008 until 2010, the Board audited more 600 licensing records to confirm compliance with continuing professional requirements. Roughly 8% of the licensees failed the audit, either because the requisite numbers of course hours were deficient or the courses were not approved as practice relevant.

**e. What is the board's course approval policy?**

Board staff reviews and approves CE courses submitted by approved providers. Unless a subject matter expert is necessary to provide expert guidance (see subsection f. below)

**f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?**

Staff reviews and approves both CE providers and courses, however, subject matter experts are used if the course content is unfamiliar to staff or requires expert review by a licensed professional in order to determine the practice relevance of the course.

The applications to become a Board-approved provider are on the Board's website at [http://www.speechandhearing.ca.gov/applicants/ce\\_provider.shtml](http://www.speechandhearing.ca.gov/applicants/ce_provider.shtml). Those interested in becoming providers must complete the application, submit a \$200 fee or \$50 per course for hearing aid dispenser courses, and submit a detailed course outline with the application.

**g. How many applications for CE providers and CE courses were received? How many were approved?**

The Board has approved 333 courses since 2009. Annually, the Board receives and approves roughly 85 CE courses.

**h. Does the board audit CE providers? If so, describe the board's policy and process.**

A similar process to that employed to audit licensees, is also employed to audit CE providers. The Board conducts a random audit of roughly 5% of its providers. A letter is sent to the provider notifying them of the audit and requesting the following information to be submitted to the Board within 30 days: course syllabi, information regarding the time and location of the course offering, course advertisements, course instructor resumes or vitas, attendance rosters including names and license numbers of the attendee, and records of course completion. Staff reviews the provider documentation and consults with the Board's Executive Officer if a compliance issue is noted. The Board may revoke a provider approval for failing to comply with the continuing professional development program requirements (CCR Section 1399.160.8).

**i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensees' continuing competence.**

While the Board believes that continuous professional growth is critically important in learning new techniques and strategies for providing appropriate services to individuals from diverse cultural and linguistic backgrounds, as well as to those from the ever-growing aging population, more progressive models for encouraging professional growth should be explored. To that end, the Board Chair participated in a number of conference calls with the DCA Executive team and other board chairs, and representatives from the Citizens Advocacy Center to discuss the feasibility of implementing a continuing competence model. Some information has been gathered regarding opportunities for the model to be

employed for SLPs and audiologists; however, more research must be conducted to assess resource requirements and partnership with professional associations.

## Section 5 – Enforcement Program

### 30. What are the board’s performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

In 2010, DCA developed standard performance measures for each board and bureau to assess the effectiveness of its enforcement program. DCA established an overall goal to complete consumer complaints within 12 to 18 months. Each board and bureau is responsible for determining its performance target for each performance measure to achieve the 12-18 month goal. The Board’s performance targets are noted below.

Performance Measure (PM)	Definition	Target	Current 2011/2012
PM1 Volume	Number of complaints received	*	196
PM 2 Intake	Average number of days from complaint receipt, to the date the complaint was assigned to an investigator.	5 days	5
PM 3 Intake & Investigation	Average number of days from complaint receipt to closure of the investigation process. (Does not include cases sent to the AG or other forms of formal discipline.)	90 days	265
PM 4 Formal Discipline	Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake, investigation and prosecution by AG.)	540 days	1075
PM 5 Costs	Average costs of intake and investigation for complaints not resulting in formal discipline.	**	**
PM 6 Customer Satisfaction	Consumer satisfaction with the service received during the enforcement process.	85% Satisfaction	57
PM 7 Probation – Initial Contact	Average number of days from monitor assignment, to the date the monitor first makes contact with the probationer.	14 days	3
PM 8 Probation Violation	Average number of days from time a violation is reported against a probationer to the time the monitor responds.	3 days- Violation  21 days- Non Compliance	2
<p>* Complaint volume is counted and is not considered a performance measure.</p> <p>** Current systems do not capture this data. According to DCA collection of this data will begin after the implementation of BreZEz.</p>			

As reflected above, the Board is not meeting its target for completing investigations, or for processing cases that result in formal discipline. Investigations include both desk and formal investigations, and factors in timelines for case review by a professional expert. While the Board is handling many of its investigations in-house through the use of a non-sworn investigator, several cases still remain with the Division of Investigation (DOI). The investigator position is new to the Board as of April 2011, so much time was spent on training and development of the new investigator, establishing desk policies and procedures, and appropriate protocols for case transfers to the non-sworn investigator. We are confident that as our new investigator becomes more seasoned in the position, processing timelines will be reduced. In terms of cases transferred to DOI, where more complex investigations may take 6-8, months to complete, the Board has earnestly worked with the AG's Office to learn how to best focus its investigative efforts on gathering the most pertinent facts. Also, Board staff is routinely in contact with DOI on pending cases to request status updates in an effort to reduce the current processing timelines of 265 days.

AG cases are inherently lengthy as the process to come to a resolution in a case involves active participation and communication of both counsel for the prosecution and the defendant. Delays occur in scheduling hearings, preconference settlements, and obtaining settlement responses from the licensee. The Board is mindful of the processing delays with its administrative cases and is looking forward to the new case management reports developed by the AG to assist their clients in tracking case status.

**31. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?**

The majority of complaints received by the Board involve allegations of fraud, unprofessional conduct, conviction of a crime, and violations related to failure to comply with required CE mandates. Many complaints involving minor infractions or practitioner/client disagreements are resolved through mediation, letters of education, and/or the issuance of a citation and fine. Violations of a more serious nature that are substantially related to the duties of the licensee or pose a significant risk to the public, such as felony convictions, drug/alcohol misuse, and gross negligence are referred for formal investigation and possible disciplinary action. Complaints regarding unlicensed activity, where patient harm has occurred or is imminent, are investigated and referred to the District Attorney's office for criminal prosecution. Less serious unlicensed practice cases are addressed through cease and desist letters, and citation and fine orders.

The number of complaints received by the Board has increased due to the merger of the two agencies, with approximately 200 complaints received by the Board annually, in the last three years. However, since the merger in 2010, the number of hearing aid dispenser complaints has decreased due to outreach efforts by the Board to educate licensees about advertising regulations and hearing aid warranty provisions. At one time, complaints against hearing aid dispensers for violations related to misleading

advertisements represented greater than 33% of the total complaints received, with another 40% stemming from hearing aid dispensers failing to provide refunds to consumers who returned their hearing aids during the specified warranty period (provisions of the Song Beverly Consumer Warranty Act).

Complaints against SLPs, audiologists, and SLPAs, has increased since the Board was last reviewed in 1998, primarily due to an overall increase in licensing population and a greater awareness of the Board and its enforcement responsibilities.

In an effort to decrease complaint processing timelines, the Board discontinued the use of the DCA's complaint mediation unit for hearing aid dispenser complaints, and was successful in obtaining a non-sworn investigator position in 2010, through the CPEI budget proposal. By centralizing desk investigations and field investigations within the Board, utilizing in-house Board staff who are intimately familiar with the laws and regulations and the scope of practice of the professions, the Board has been able to monitor its cases and handle complaints and investigations more efficiently. Also, staff worked with Board management to implement aggressive internal performance measures (See attachment \_\_\_\_). The Board is working toward meeting these new performance goals and has engaged in cross-training of Board staff, and designed new tracking and reporting methods for accountability.

<b>Table 9a. Enforcement Statistics</b>			
	FY 2009/10	FY 2010/11	FY 2011/12
<b>COMPLAINT</b>			
Intake			
Received	290	240	196
Closed	0	0	1
Referred to INV	291	239	196
Average Time to Close	4	2	5
Pending (close of FY)	0	1	0
Source of Complaint			
Public	95	85	56
Licensee/Professional Groups	63	50	60
Governmental Agencies	36	45	60
Other	96	60	20
Conviction / Arrest			
CONV Received	38	45	24
CONV Closed	38	45	24
Average Time to Close	2	1	2
CONV Pending (close of FY)	0	0	0
<b>LICENSE DENIAL</b>			
License Applications Denied	6	0	2
SOIs Filed	0	0	3
SOIs Withdrawn	0	0	3
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	382	0	0

<b>ACCUSATION</b>			
Accusations Filed	5	7	11
Accusations Withdrawn	0	0	1
Accusations Dismissed	1	0	0
Accusations Declined	3	0	2
Average Days Accusations	1107	803	1348
Pending (close of FY)	18	27	12

<b>Table 9b. Enforcement Statistics (continued)</b>			
	FY 2009/10	FY 2010/11	FY 2011/12
<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	3	0	1
Stipulations	6	3	2
Average Days to Complete	865	803	1348
AG Cases Initiated	13	18	18
AG Cases Pending (close of FY)	18	27	25
Disciplinary Outcomes			
Revocation	0	0	1
Voluntary Surrender	1	2	2
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	4	1	7
Probationary License Issued	2	2	2
Other	0	1	0
<b>PROBATION</b>			
New Probationers	8	3	7
Probations Successfully Completed	2	6	3
Probationers (close of FY)	28	28	27
Petitions to Revoke Probation	2	0	0
Probations Revoked	0	0	1
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	NA	5	6
Drug Tests Ordered	NA	59	114
Positive Drug Tests	NA	0	0
Petition for Reinstatement Granted	0	0	0
<b>DIVERSION</b>			
New Participants	NA	NA	NA
Successful Completions	NA	NA	NA
Participants (close of FY)	NA	NA	NA
Terminations	NA	NA	NA
Terminations for Public Threat	NA	NA	NA
Drug Tests Ordered	NA	NA	NA
Positive Drug Tests	NA	NA	NA

<b>Table 9c. Enforcement Statistics (continued)</b>			
	FY 2009/10	FY 2010/11	FY 2011/12
<b>INVESTIGATION</b>			
All Investigations			
First Assigned	291	239	196
Closed	227	274	184
Average days to close	220	255	296
Pending (close of FY)	202	167	179
Desk Investigations			
Closed	195	233	137
Average days to close	108	198	273
Pending (close of FY)	158	132	154
Non-Sworn Investigation			
Closed	0	1	25
Average days to close	0	184	246
Pending (close of FY)	0	12	13
Sworn Investigation			
Closed	32	40	22
Average days to close	856	517	482
Pending (close of FY)	44	23	12
<b>COMPLIANCE ACTION</b>			
ISO & TRO Issued	0	0	1
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	1	0
Cease & Desist/Warning	30	47	45
Referred for Diversion	NA	NA	NA
Compel Examination	0	0	0
<b>CITATION AND FINE</b>			
Citations Issued	32	22	16
Average Days to Complete	92	192	209
Amount of Fines Assessed	6,800	10,150	23,450
Reduced, Withdrawn, Dismissed	0	0	0
Amount Collected	2,550	5,150	8,350
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	1	0	0



**Table 10. Enforcement Aging**

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
1 Year	2	3	1	0	6	23%
2 Years	1	3	0	0	4	15%
3 Years	0	2	3	2	7	27%
4 Years	1	0	0	6	7	27%
Over 4 Years	0	1	0	1	2	7%
Total Cases Closed	4	9	4	9	26	
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	197	131	65	33	426	43%
180 Days	15	37	61	29	142	14%
1 Year	25	29	92	50	196	20%
2 Years	37	24	62	65	188	19%
3 Years	4	6	9	8	27	3%
Over 3 Years	2	6	0	0	8	1%
Total Cases Closed	280	227	274	185	987	

**32. What do overall statistics show as to increases or decreases in disciplinary action since last review.**

Since the SLPAB's last review, the number of disciplinary cases filed with the AG has more than doubled, with fewer than 5 cases filed annually prior to 2006, to more than 10-17 cases in recent years. As stated earlier in the report, one reason for the increase in the disciplinary cases is merely an increase in the overall licensing population. Another contributing factor is an increase in criminal conviction reports the Board receives through DOJ. This increase may be attributed to the sophistication of Livescan and the automated record match for reporting subsequent arrest notifications. The Hearing Aid Dispensers Bureau reported an average of 4 cases filed per year with the AG's office from 2002-2006. In FY 09/10- 19 cases were filed against hearing aid dispensers, in FY 10/11- 2 cases were filed, and in FY 11/12 - 8 cases were filed. The increase reflected in FY 09/10 is a result of cases which were historically pending with the Bureau prior to the merger, and which the Board initiated administrative action.

**33. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.**

The Board's utilizes the DCA's Complaint Prioritization Guidelines when assessing the urgency of a complaint received by the Board. Each case is reviewed and expedited according to the alleged violations. The Board takes immediate action to involve the



AG's Office when a complaint alleges any activity that the probability of public harm is imminent.

**34. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report actions taken against a licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?**

The Board, along with many other healing arts boards, is included in the B&P Code 800 series which, among other reporting requirements, requires professional liability insurers to notify the Board of situations involving professional negligence or incompetence by licensed SLPs and audiologists, including any relevant settlement reports, arbitration awards, and judgments against the licensee. B&P Section 803 requires the courts to report any acts of negligence, error, or omission in practice by a licensee where death or personal injury resulted in a judgment for an amount exceeding \$30,000.

While there is not specific statutory requirements for reporting, other state licensing boards, governmental agencies, rehab facilities, etc., send disciplinary reports, audit findings, and personnel action reports to the Board for review.

There are no other laws in the Board's specific practice act(s) which require other professionals to report misconduct by a licensee, however, professionals are encouraged to report any acts of unprofessional conduct and/or matters that pose a risk to the public.

**35. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases were lost due to statute of limitations? If not, what is the board's policy on statute of limitations?**

The Board does not operate with a statute of limitations for its administrative discipline cases. However, since there is a statute of limitations on criminal cases (Penal Code Section 800-805), which is generally one-year from the date of discovery for misdemeanor cases, and three years for felony cases, the Board works diligently with its investigators and the AG's Office to avoid losing cases to an expiration of the statute of limitations.

The Board does not have record of any cases lost in the past 5 years due to a statute of limitations issue.

**36. Describe the board's efforts to address unlicensed activity and the underground economy.**

Since July 1, 2009, the Board received 726 complaints, 82 of which involved unlicensed activity. Of the 82 cases received, only 29 were referred to the Division of Investigation to either trace the unlicensed individual's records, or to conduct undercover operations. The majority of the Board's unlicensed activity cases involve, previously licensed

practitioners who allow their license to become delinquent for failing to renew timely, or support personnel who fail to file the appropriate licensing paperwork timely in order to practice under supervision. Typically, these cases result in the issuance of a citation and fine to the unlicensed individual and depending upon the circumstances, to the responsible supervisor for aiding and abetting unlicensed practice.

In cases where substantiated unlicensed practice occurs, and is not as a result of a temporary lapse in license status, the Board involves the local District Attorney's Office so criminal action may be pursued in addition to a citation and fine levied by the Board.

## **Cite and Fine**

### **37. Discuss the extent to which the board has used its cite and fine authority.**

**Discuss any changes from last review and last time regulations were updated. Has the board increased its maximum fines to the \$5,000 statutory limit?**

The Board is authorized by B&P Code Section 125.9 to issue citations that may contain and order of abatement and an order to pay an administrative fine. Primarily, citations are issued for failure to comply with CE requirements, for unlicensed activity violations, advertising violations, and for minor infractions of the laws and regulations governing the practices of SLP, audiology, and hearing aid dispensing, but which do not warrant formal discipline.

In April 2006, the citation and fine regulations relative to the practices of speech-language pathology and audiology, contained in CCR Section 1399.159, were revamped in an effort to provide a thorough fact gathering process, referred to as "office mediation," prior to the actual issuance of the citation order. Prior to the issuance of an official citation, the Board notifies the subject licensee by sending a notice of probable violation letter and providing the subject licensee with an opportunity to resolve the matter through office mediation. The individual or his or her representative is given an opportunity to obtain copies of all non-privileged documents relevant to the matter by submitting a written request. By employing this process, the Board determines whether grounds exist to issue the official citation. Alternately, the parties have the opportunity to discuss the mitigating and aggravating factors that led to the probable violation notification and reach an appropriate settlement of the matter, thereby avoiding further administrative or legal procedures.

Since the issuance of the citation is public record, the Board felt it prudent to construct a process that would allow for a fact finding process and to hear the respondent's defense, prior to issuing the sanction. In this way, the Board can make an informed decision regarding the issuance of a citation order and, in turn, protect the licensee and the consumer from reviewing unsubstantiated information.

In addition, the same regulation amendment realigned the current regulatory language to reflect amendments to the governing statute. Specifically, it increased the maximum allowable fine from two thousand-five hundred dollars (\$2500) to five thousand dollars (\$5000) in situations where exceptional circumstances exist. It specifies criteria that should exist to warrant maximum penalties.

The citation and fine regulations relative to hearing aid dispensers, Section 1399.136 were last amended in 2001, and provide for a list of violations and an associated range of fines that may be levied. Section 1399.136 authorizes fines ranging from one-hundred dollars \$100 up to two thousand-five hundred dollars (\$2500). The Board is considering changes to the hearing aid dispensers' provisions to align the regulations with the SLP and audiology citation and fine process.

**38. How is cite and fine used? What types of violations are the basis for citation and fine?**

As stated above, citation and fines are issued for minor infractions of the laws and regulations, e.g., failure to comply with CE requirements, advertising violations, failure to keep updated records with the Board, failure to renew a license prior to the expiration, and failure to appropriately register support personnel or trainees prior to employing the personnel to provide services.

**39. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals in the last 4 fiscal years?**

The Board scheduled and conducted four informal conferences/office mediations in the last four years and rendered decisions on two written appeals in lieu of conducting the informal conference. The Board does not have an established Disciplinary Review Committee. The Executive Officer and the enforcement analyst conduct the informal conferences/office mediations. There were no Administrative Procedure Act appeals filed within the past 4 fiscal years.

**40. What are the 5 most common violations for which citations are issued?**

- Unlicensed Practice
- False/Misleading Advertising
- Aiding and Abetting Unlicensed Practice
- Failure to Maintain Appropriate Records (Receipts)
- CE Compliance Issues

**41. What is average fine pre and post appeal?**

For hearing aid dispenser citation and fines, the average pre fine is \$1,595.00 and post fine appeal (following an information conference) is \$825.00.

**42. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.**

B&P Code Section 125.9 authorizes the Board to add the full amount of an outstanding fine to the license renewal if the citation and fine are a final order, and the licensee fails to pay the fine amount in full. A hold is placed on the license renewal of all licensees where an outstanding fine is pending. The fine, along with the relevant renewal fees must be paid before the license may be renewed.

The Board has not had to use the Franchise Tax Board's collection services in the past four fiscal years, but is aware of the option should collection of a fine become an issue.

**Cost Recovery and Restitution**

**43. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.**

B&P Section 125.3(a) provides the Board with the authority to recover the reasonable costs of investigation and prosecution of a disciplinary case. The Board seeks cost recovery in most disciplinary cases, whether through settlements, or through administrative hearings. In cases where a respondent is placed on probation, cost recovery is included as a term and condition of probation and may be collected under a Board-approved payment plan. Also, probation monitoring costs may be included in settlement agreements and are based on the actual cost for the Board to monitor the probationer.

Cost recovery amounts are typically negotiated when entering into a stipulated settlement. Often, an agreement by the Board to reduce the cost recovery amount encourages the respondent to settle the case with appropriate license restrictions and avoids further costs associated with the administrative hearing process.

In cases that proceed to an Administrative Hearing, the Board would seek full cost recovery for all investigation and prosecution costs, including costs to prepare for the hearing. However, the Administrative Law Judge may reduce or dismiss cost recovery in a proposed decision.

**44. How many and how much is ordered for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**

See table 11b. Cases of revocations and surrenders are typically uncollectable as the former licensee has no motivation to pay the ordered cost, either because the individual relocates to another state or changes professions. In revocation cases, where cost recovery is ordered, but not collected, the Board will transmit the case to the Franchise Tax Board, for collection.

**45. Are there cases for which the board does not seek cost recovery? Why?**

The Board does not seek cost recovery for conditional licensees, since the issuance of conditional license (comparable to a probationary license) does not involve costs for investigation or case preparation by the AG’s Office.

In a stipulated settlement where a licensee agrees to surrender their license, a condition of cost recovery is included wherein all costs of investigation and prosecution, must be paid prior to the Board considering a petition for reinstatement of the license.

**46. Describe the board’s use of Franchise Tax Board intercepts to collect cost recovery.**

The Board has not transmitted any cases to the Franchise Tax Board for collection of costs in the past four fiscal years, but will utilize the service for outstanding collections.

**47. Describe the board’s efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.**

The Board seeks monetary restitution for consumers in cases regarding hearing aid returns and refunds, pursuant to the provisions of the Song Beverly Consumer Warranty Act (SBCWA). In such cases, consumers are entitled to a full refund of the cost of the purchased hearing aids, which are later returned for issues of suitability or defect. The Board attempts to seek restitution through mediation between the consumer and the hearing aid dispenser. However, when such efforts are unsuccessful, the Board will order the hearing aid dispenser to pay restitution in full to the consumer by means of an administrative order, stipulated settlement, or in less egregious cases, through citation and fine. Payment to the consumer must be made within a specified period of time, typically not more than thirty days, and is tracked by the Board to ensure the consumer is made whole.

<b>Table 11a. Cost Recovery</b>				
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Total Enforcement Expenditures	138,794.00	248,939.00	288,345.00	209,489.00
Potential Cases for Recovery *	3	7	4	10
Cases Recovery Ordered	3	5	3	10
Amount of Cost Recovery Ordered	16,383.50	26,452.00	29,931.00	99,253.50
Amount Collected	17,215.00	10,194.44	13,103.38	5,628.26
* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act, however cost recovery may not have been stipulated in the order.				

<b>Table 11b. Cost Recovery Ordered by Type</b>				<b>FY 2008-2009 through 2011/2012</b>			
Revocations		Surrenders		Probations		Total	
1		6		14		21	
\$11,395.50		\$73,641.50		\$86,983.00		\$172,028.00	

<b>Table 12. Restitution</b>				
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Amount Ordered	0	332,000.00	5,800.00	43,891.34
Amount Collected	30,879.00	17,614.00	5,800.00	27,044.00

## Section 6 – Public Information Policies

**48. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?**

The Board's website was created in 2000 and in August 2012 went through a major overhaul to make it easier to navigate for applicants, licensees and consumers. The website features links to the Board's laws and regulations, publications, including our Strategic Plan 2012-2015, consumer, applicant and licensee surveys and related links. We enhanced our Board Activity page by including the Board's history; biographies and photos of our Board Members; a listing of our committees, their functions and members; and opportunities for public participation.

All Board and committee meeting agendas, materials and minutes are posted on the website. Agendas are posted at least 10 days in advance of the meeting in accordance with the Bagley-Keene Open Meeting Act (Government Code section 11120-11132). Since 2008, agendas and approved meeting minutes are on the website; since 2009 meeting materials are available on the website. Draft meeting minutes from the previous meeting are included as an agenda item for approval in subsequent meetings. Once edits to the minutes are completed, the approved meeting minutes are posted on the website.

**49. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings?**

Yes, the Board webcasts both Board and committee meetings and plans on continuing this process to make certain meetings are accessible to those who may not be able to personally attend.

**50. Does the board establish an annual meeting calendar, and post it on the board's web site?**

During the last Board meeting of each year, the Board members establish the next annual meeting calendar. The dates for the following year are posted on the website two to three months prior to the end of the current calendar year.

**51. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)*?**

Using the statutory and constitutional principles of the Public Records Act, the Board adopted regulations in August 2006 (CCR Sections 1399.180-1399.187) governing the disclosure of information pertaining to licensees and other records maintained by the Board.

CCR Section 1399.183 specifies the point at which information concerning past or pending complaints may be disclosed to the public. The regulations are consistent with the DCA's recommended minimum standards. Complaints that have resulted in a referral to the Attorney General (AG) or a formal legal action may be disclosed. Complaints found to be without merit or that result in no legal action taken following a referral to the AG, will be removed from the Board's public disclosure system. A disclaimer accompanies the disclosure of complaints that have resulted in a referral to the AG. Likewise, status and final dispositions of complaints resulting in criminal prosecution are disclosed to the public.

To protect the privacy rights of the complainant, information that would identify or lead to his or her identification is not disclosed. In addition, disclosure is not made if it would compromise an investigation or could endanger the complainant or any third party.

Complaints and investigations in which a violation is substantiated and the Board takes actions by issuing a citation and fine or files an accusation, the citation and fine, accusation, and resulting disciplinary action, are matters of public record. This information is available on the Board's website.

**52. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

As provided for in CCR Section 1399.187, the public may access a licensee's record through our website. Using the online license verification feature, the public may view the issue and expiration date of the license; current license status; address or record, and any disciplinary actions.

Also, subject to limitations set forth in the Information Practices Act, and the California Constitution regarding personal privacy, information contained in the licensee's file may be disclosed to the public upon request.

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

California's effort to reduce government spending has eliminated much of the Board member and Executive Officer's travel to conferences and other professional events, however the Executive Officer does attend meetings where either enforcement issues must be resolved or for auditing purposes. In addition, Board staff develops Power-Point presentations to share with university training programs regarding licensing requirements. The Executive Officer also develops presentations regarding legislative, regulatory, and policy updates to share with professional associations, where the presentation can be uploaded and shared with attendees. However, the most convenient and cost-effective platform for the Board to educate its applicants, licensees, and consumers is through the use of its website. As mentioned earlier, the Board made a concerted effort to redesign its website for easier navigation and to carefully update the information posted.

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

There have been few cases reported to the Board regarding unlicensed activity occurring through online practice. However, the Board does regulate on-line practice to a degree as described below:

**Telehealth:**

Treatment for both speech and hearing disorders may be effectively delivered via telehealth which includes some form of online interaction between the patient and the provider. In an effort to provide guidance to its licensees, the Board provided the following practice guideline on its website:



***Telehealth is viewed as mode of delivery of health care services, not a separate form of practice.*** There are no legal prohibitions to using technology in the practice of speech-language pathology, audiology, or hearing aid dispensing, as long as the practice is done by a California licensed practitioner. Telehealth is not a telephone conversation, e-mail/instant messaging conversation, or fax; it typically involves the application of videoconferencing or store and forward technology to provide or support health care delivery.

The **standard of care** is the same whether the patient is seen in-person, through telehealth or other methods of electronically enabled health care. Practitioners need not reside in California, as long as they have a valid, current California license.

The **laws** govern the practice of SLP, audiology, and hearing aid dispensing, and no matter how communication is performed, the standard of care is no more or less. **Practitioners using Telehealth technologies to provide care to patients located in California must be licensed in California and must provide appropriate services and/or treatment to the patient.**

#### **On-line Business Practices:**

The remote acquisition of hearing aids has become a common business transaction as more companies market devices to consumers via the Internet with claims of one-size fits all or the ability to remotely adapt the hearing aid to fit the purchaser's needs.

Business and Professions Code Section 2538.23 governs the sale of hearing aids by catalog or direct mail. Section 2538.23 (previously Section 3351.5) was adopted in 1990 through SB 1916, in an attempt to address fraud and misconduct by catalog and mail sellers of hearing aids who were not licensed. Reports of dealers failing to deliver the hearing aids or delivering an inferior product prompted the then Committee to take action and regulate the sellers by holding a licensed party accountable for the business transaction. While Section 2538.23 does not specifically include the term "Internet" sales, the intent of the section is to regulate similar business transactions.

Regulation of hearing aid devices fall under the Federal Drug Administration (FDA) and FDA provisions do not specifically restrict the sale of hearing aids via the Internet. Further, federal rule provides that no state may establish any requirement which is different from, or in addition to, the federal provisions unless the state is granted an exemption from the federal government to enforce more restrictive regulations. There is no record of a federal exemption being granted for Section 2538.23, however, for well over a decade California has been effectively regulating the sale of hearing aids acquired by mail order.

Although, the impetus for Section 2538.23 back in 1990 was to address fraud and misconduct, many hearing health care professionals contend that it is impossible to appropriately select, fit, and adapt a hearing aid for a consumer sight unseen. In addition, 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. Waiver of this requirement places the 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. As such, the Board believes it is vitally important to continue to regulate the remote acquisition of hearing aids and require an examination of a prospective consumer's ear canal and medical clearance.

Recently, the Board was challenged by a major retailer regarding the restrictions on Internet sales of hearing aids and thus, the Board began to review its current statutory authority in light of federal preemption issues. It was determined that the Board should seek a federal exemption to Section 2538.23 and, if approved, should promulgate regulations defining Internet sales as a mail order transaction. On May 30, 2012, the Board sent an exemption request to the FDA, however, to date the Board has not received a response from the FDA.

## Section 8 – Workforce Development and Job Creation

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

In response to Assembly Bill 205 (Machado), effective January 1, 1999, which created the new paraprofessional registration category, speech-language pathology assistants (SLPAs), the Board served on a workforce development advisory committee, the Golden SLPA (Speech-Language Pathology Assistant) Project. The committee which was primarily comprised of educators, licensed speech-language pathologists, and school administrators (involved with Head Start Programs) had the primary goal of developing educational and licensing opportunities for individuals to serve as paraprofessionals in the field of speech-language pathology. At the time, there was a high demand for support in the field of speech-language pathology as a number of staffing shortages and service demands were reported in California, especially those trained to work with young children and/or culturally and linguistically diverse populations. The committee was instrumental in assisting several community colleges, seven in California, with developing associate-degree level training which has created entry-level career opportunities for individuals to be self-supporting and no longer dependent on state subsistence.

In the mid-90's, a national movement began to take shape to increase the academic training for audiologists from the current master's degree training model to that of doctoral training. Despite reports of shortages in trained audiologists to meet the public's hearing health care needs, it was determined that advanced level training was necessary, especially in the area of diagnosis and treatment of infants with hearing deficits, and those suffering from balance disorders. In 2005, the University of California (UC) conducted a study on the need for advanced training in the field of audiology. At that time, there were six California State University (CSU) training

programs, awarding master's degrees in audiology. Most of the programs closed in late 2005 and all were phased out by 2006 when the accreditation standards for audiology education reflected the new doctoral model. One audiology training program remained, which was a joint-doctoral program between San Diego State University and the University of San Diego. Between 2007 and 2008, the SLPAHADB attended a number of joint meetings with the UC and CSU, regarding the need for additional public institution training programs in audiology. The SLPAHADB provided licensing data and workforce trends and discussed the issues of student enrollment and retention. California was importing greater than 60% of its licensing population from other states, even during the time that all six CSU programs were still operating. While great strides were made to develop comprehensive state training models, either joint CSU-UC ventures or stand-alone UC programs, it was ultimately determined that sufficient state funding could not be secured that would off-set exorbitant tuition and sustain a program of this type.

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

Due to a number of budget constraints, including mandatory salary savings, hiring restrictions, and position reductions, the Board has been unable to fill the vacant Office Technician (OT) position for over a year. While the OT position is primarily responsible for administrative duties, cashiering, data entry, purchasing, personnel matters, etc., one of only two licensing analysts of the Board has had to assume most of these administrative duties due to the long-standing vacancy. To alleviate some of the burden on the licensing program, the Board employed the assistance of a student to provide administrative support. Recent state-wide budget cuts required the Board to discontinue use of students as temporary help. As a result, the Board has experienced delays in processing applications and issuing licenses as processing timelines have increase from 4-6 weeks to a minimum of 8 weeks.

In July 2012, the Board was directed by the Department of Finance to identify any vacant positions that could be eliminated or reduced in order to comply with a mandatory reduction in personnel. As such, the Board was forced to reduce its one vacant position from a full-time PY to a .6 position at 24 hours per week. The Board is currently recruiting for this vacancy.

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

With the exception of the last few years, the Board would routinely travel to university training programs and present information to students on licensing requirements, processes, forms, and pertinent laws and regulations. State travel restrictions on non mission critical travel have prevented the Board from making such appearances. However, the Board has made its presentation available to training program directors to share with their students, and is available to provide direction to schools regarding educating students on licensing requirements.

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

**a. Workforce shortages**

Aside from gathering licensing statistics which reflect new licenses/registrations issued, those renewed, and licenses that have been cancelled, the Board has not collected workforce development data. Workforce studies, as conducted by state training programs and mentioned in this report, cite workforce shortages and forecast service demands. The Board did not independently collect the data or verify the source and accuracy of the information.

**b. Successful training programs.**

The Board does keep record of the number of newly licensed speech-language pathology assistants (SLPAs) who graduate from a Board-approved SLPA training program, although, the statistics do not reflect the total number of graduates from each individual program per year, as not all graduates seek registration in California. The information does provide some indication of the program's student retention and graduation success. SLPA training programs in California have trained over 400 registered SLPAs.

**Section 9 –  
Current Issues**

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

After several meeting discussions and in consultation with legal counsel, the Board adopted proposed language incorporating the Uniform Standards for Substance Abusing licenses into its Disciplinary Guidelines at its July 26-27, 2012 Board meeting. The staff is in the process of working with legal counsel to finalize the necessary regulatory documents in order to file the proposed standards and guidelines with the Office of Administrative Law.

[Attach Uniform Standards/DGs regs](#)

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

The Board filed the final rulemaking file with the Office of Administrative Law (OAL) on September 17, 2012. The proposed regulations serve to implement the provisions of the consumer protection enforcement initiative and provide the Board with greater tools to thoroughly investigate applicants and complaints in enforcement matters both expeditiously and judiciously.

There were no comments in opposition to the proposed regulations filed by the Board and to date, the Board has not been notified of any further legal challenges from OAL.

[Attach CPEI regulations](#)

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

The Board is included in Phase II of the BreEZe implementation and is scheduled to be on-line with the BreEZe system in April 2013. Currently, the Board is developing public notices to send to its licensees and applicants informing them of the new system and the program features. Staff is serving as subject matter experts consulting with BreEZe programmers regarding the Board's unique business needs. Our new website highlights the benefits of BreEZe to our applicants, licensees, and consumers.

**Section 10 –  
Board Action and Response to Prior Sunset Issues**

**Include the following:**

- 1. Background information concerning the issue as it pertains to the board.**
- 2. Short discussion of recommendations made by the Committee/Joint Committee during prior sunset review.**
- 3. What action the board took in response to the recommendation or findings made under prior sunset review.**
- 4. Any recommendations the board has for dealing with the issue, if appropriate.**

**PRIOR SUNSET ISSUES OF THE HEARING AID DISPENSERS BUREAU**  
*Issues from the 1998 Sunset Review Report*

**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 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.

**BOARD ACTION: The Board continues to license and regulate hearing aid dispensers.**

The Board 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 sound public policy.

**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 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 (AB1807, 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 proposed 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.

**BOARD ACTION:** Currently, one option available to individuals seeking licensure as a Hearing Aid Dispenser in California is to find a hearing aid dispenser or dispensing audiologist, who has been licensed for at least three years and will serve as their supervisor. The trainee temporary license is issued for six months and can be renewed two times. The trainee is also required to take the written examination within the first 10 months of issuance.

In May 2005, the Bureau scheduled an informational hearing for 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 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.

Examination statistics analyzed by the Board reveal that a number of applicants failed the practical examination on the first attempt. Individuals who held a trainee license prior to taking the examination fared slightly better on the first attempt than those who chose not to become a trainee under a supervisor. Still, 20% of those who failed the examination on the first attempt were trainees with at least six months of supervision.

The Board is in favor of convening an advisory committee of industry professionals to develop a training manual that would provide these supervisors with the structure and guidance to consistently train for entry into independent practice. It would also establish accountability for the supervisor.

The standardized training manual should include, but not limited to, these subject areas:

- California Laws and Regulations governing hearing aid dispensing
- The anatomy of the ear
- Audiometric testing
- Hearing instruments
- Fitting of hearing instruments

**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 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.

**BOARD ACTION:**

The Bureau retained oversight of the CE program for hearing aid dispensers and monitoring of the program is now under the purview of the Board. The Board concurs with the former Joint Committee’s recommendation. Abdicating oversight of a licensing requirement to a professional organization is a conflict. Professional organizations host conferences and seminars where CE hours are provided to members and nonmembers for a fee. Monitoring and review of CE providers and courses should rest with the licensing agency, where the sole interest in evaluating CE offerings to be applied toward licensing renewal requirements is based upon continuing professional growth in the professional discipline, and where no financial gain is at issue. Maintaining this responsibility with the Board ensures the process remains independent and objective, accessible to all applicants and licensees via the website, and focuses 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 and new technology project.

**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.

**BOARD ACTION:**

On July 1, 2006, the Bureau began utilizing 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 Department's automated Consumer Affairs system (CAS) which is a licensing and enforcement legacy database. However, the Board will realize complete automation with the BreZze system where the majority of the licensing activity will be interactive and internet accessible to applicants and licensees.

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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 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.

**BOARD ACTION:**

At the time of the last sunset review, the Bureau administered the hearing aid dispenser's 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 CBT administration including scoring and score reporting.

The Board continues to use the same contractor and has found that electronic test administration has increased examination security, allows for better utilization of staff resources, and provides improved services and availability to the applicants.

**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 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.

**BOARD ACTION:**

In 1988, 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 were related to advertising issues. Typical advertising complaints received were copies of newspaper advertisements, direct mail solicitations, copies of business cards and yellow page ads. In the past two years, the Board has received approximately 250 hearing aid dispenser complaints, of which 35% are related to advertising issues. Most advertising complaints are submitted anonymously or by other licensees, which suggests that business competition is driving the large number of advertising complaints filed with the former Bureau and now Board.

To educate dispensers on appropriate advertising, the former Bureau developed a fact sheet entitled "Advertising Guidelines for Hearing Aid Dispensers" in the early 90's and distributed the fact sheets at various events. The Board has since amended the fact sheet (2010) and is currently working with legal counsel and the Board to revise the current advertising regulations, California Code of Regulations Section 1399.127. The Board has determined that the regulations as currently written are ambiguous, difficult to enforce, and may be overly-restrictive. The Board has proposed simplifying the advertising provisions to restrict only that which is inherently false or misleading, and remove restrictions on specific hearing aid pricing language as it appears the regulations as currently written, are not adding a layer of consumer protection but rather spurring tension between hearing aid competitors.

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

**JOINT COMMITTEE Recommendations:** 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 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 Californian (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 FY 1997/98 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 99/00 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.

### **BOARD ACTION:**

Since the last sunset review, the former Bureau's enforcement costs appeared to decrease and stabilize to a manageable expenditure level under existing revenue. Now that oversight of the hearing aid dispensers has been assumed by the Board, the sharing of administrative staff and overhead has provided some overall cost savings. The most substantial savings for the hearing aid program has been the reduction in investigation costs. Securing an in-house investigator to handle the majority of the hearing aid investigations has saved the Board over \$100,000 annually in costs that would typically be paid to the Division of Investigation.

Since the combining of all revenues for hearing aid dispensing, speech-language pathologists, and audiologists, into the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund was as recent as January 1, 2012 (SB 933, Statutes of 2011), it is unclear at this point, whether a fee increase will be necessary, and if so, which licensing category should be subject to a fee increase. The Board is working closely with the Department's Budget Office to forecast a reasonable fiscal reserve for the merged Board.

**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.

**BOARD UPDATE:**

Effective January 1, 2010, (AB 1535, Stats 2009) the Hearing Aid Dispensers Bureau merged into the Speech-Language Pathology and Audiology Board to form the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The Board believes a combined governance structure has proven to be more cost effective and provides greater collaboration of cross-cutting professional issues impacting both the professions of hearing aid dispensing and audiology.

**PRIOR SUNSET ISSUES OF THE SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY BOARD**

**ISSUE #1 Should the state continue the licensing of SLPs?**

**Recommendation:** Both the Department and the Committee recommended that the licensing and regulation of speech-language pathologists (SLPs) by the State of California be continued.

**Comment:** The practice of speech-language pathology involves the measurement, testing, identification, counseling, and instruction related to the development and disorders of speech, voice, or language. Speech-language pathologists (SLPs) also conduct hearing screenings, and conduct programs to identify, evaluate and rehabilitate disorders of speech, voice or language.

In some settings, SLPs engage in activities that pose a risk to the public. The Board cites the American Speech-Language-Hearing Association stating that 40% of the 87,000 speech-language pathologists and audiologists (nationally) practice in health-care settings such as hospitals, clinics, physician offices and nursing home facilities. In such settings, SLPs may engage in a number of practices that have the potential for public harm, such as: evaluating and treating swallowing disorders, fitting and training patients with specialized devices or prosthetic appliances to aid communication (e.g., patients with no larynx, or other voice or throat damage).

B&P Code § 2530.5 exempts from licensure SLPs in public or private elementary or secondary schools and those employed by federal agencies. No federal mandates require states to license or regulate SLPs. However, there are state requirements regarding Medical reimbursement for SLP services provided in both non-exempt and exempt settings. The Board states that most states regulate SLPs through licensure, while Minnesota “registers” and Washington “certifies” SLPs. No states have deregulated SLPs. Seven states and the District of Columbia do not regulate SLPs.

**Board Action: The Board continues to license and regulate speech-language pathologists.**

The primary role of the Board is to provide critical oversight to professions that are essential to the health care of California’s citizens, but also have aspects that, if not regulated, could have a severe negative impact on consumer protection and education.

The Bureau of Labor Statistics’ Occupational Outlook Handbook, 2010-11 Edition, reported that a *faster than average employment growth is expected for speech therapists* and that California ranked second as the highest employment level in Speech-Language Pathology. Further, the California Health Literacy Initiative reported on the crucial importance of workplace strategies to improve patient health literacy, defined by the American Medical Association as the “ability to obtain, process, and understand basic health information and services needed to make appropriate health decisions and follow instruction for treatment”. Because SLPs are highly qualified to provide expertise in all aspects of communication and disorders across the lifespan, they are uniquely trained to help develop and facilitate appropriate health literacy practices. Continued licensure is imperative to regulate those professionals serving the growing needs of California consumers of health care.

SLPs provide services in a number of professional environments using a variety of techniques that have the potential to cause harm if not performed with skill and training. For example, SLPs work with patients who have difficulty swallowing. The Agency for Health Care Policy and Research reported that approximately 14% of individuals over the age of sixty are affected by dysphagia<sup>3</sup>. The American Speech-Language Hearing Association noted in 2011 that 40% of treatments for adults by SLPs is in the area of dysphagia and that feeding and swallowing disorders are growing within the pediatric population. Patient aspiration is a common consequence of swallowing dysfunction that must be handled with skilled techniques. SLPs are allowed to pass both rigid and flexible endoscopes into the nasal and oral cavities of patients with voice and swallowing dysfunction. Such evaluations performed either at bedside or using videofluoroscopy can effectively identify the presence of dysphagia and aspiration. The Modified Barium Swallow Study performed in hospitals throughout the state is another example of a highly technical and medically based evaluation procedure to identify swallowing abnormalities, which is performed as a cooperative effort with a speech-language pathologist and radiologist. The complexity of such procedures requires the health care provider to possess a demonstrated level of

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<sup>3</sup>ASHA Website Research. AHCPR: Diagnosis and Treatment of Swallowing Disorders in Acute Care Stroke Patients Evidence Report/Technology Assessment No. 8

competence and calls for critical regulatory oversight of the training and practice of those SLPs who perform these procedures.

SLPs working in medical settings are often called on to treat patients who have suffered a traumatic brain injury (TBI) and have impaired communication and/or cognition. The medical and allied health literature indicate that an estimated 1.5 to 2 million individuals each year in the United States sustain a TBI<sup>4</sup>. Licensed SLPs follow TBI patients through the continuum of medical care from the trauma unit through acute rehabilitation programs and community reentry programs. The quality of therapy that patients receive is highly correlated with their ability to return to viable functioning members of society who are not permanently dependent on state and federal aid. If incompetent or poorly trained practitioners are allowed to treat TBI patients, it is probable that these patients would never lead independent and productive lives.

Over the past several years an upsurge in the number of children diagnosed with speech-language disorders, autism, and learning disabilities has dramatically increased the need for highly trained providers. According to the 2011-12 statistics in CalEd Facts<sup>5</sup>, specific learning disability accounted for more than half of all documented disabilities, with speech-language disorder a close second. However, because reading and writing are built upon a foundation of oral speech and language, research has repeatedly shown that the original basis for well over 80 percent of all learning disabilities is speech-language based, with most children being referred for a speech-language problem in preschool or earlier. In addition, 11 percent of all the childhood disabilities in California were in autism, a rate that has tripled since 2002. Finally, a November, 2010 Economic Report for CA showed that anywhere between 3 to 16% of adults, depending on age, were unemployed because of a disability. This statistic did not account for veterans, many of whom return home needing speech-language and cognitive rehabilitation. Children and adults with speech-language disorders, autism, learning disabilities and other cognitive communication disabilities will continue to need the expertise of licensed SLPs to provide communication assessment and remediation to these ever increasing populations.

The Board and its office maintain an important cooperative relationship with state professional organizations, such as the California Speech-Language-Hearing Association (CSHA) in which essential information is exchanged regarding current and upcoming professional concerns. Further, the Board has a good working relationship with other state departments [e.g., California Department of Education (DOE)] and other regulatory boards [e.g., Occupational Therapy Board (OTB)] in an effort to meet regulatory guidelines. In addition, since the professions of the Board have an independent practitioner status (unlike physical and occupational therapists who function under the orders of physicians), it is essential to retain a monitoring body that ensures the public a forum to address complaints. Lack of licensure can leave the individual clinician in the position of having to adequately interpret scope of practice issues and that, at times, can lead to encroachment/overlap of

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<sup>4</sup>National Center for Injury Prevention and Control, Centers for Disease Control and Prevention [Traumatic Brain Injury](#), 2003.

<sup>5</sup>CalEd Facts <http://www.cde.ca.gov/sp/se/sr/cefspeced.asp>

functions with other disciplines. This can create tensions between professions (e.g., OTB in relationship to swallowing and hand therapy), and confuse third party payers when addressing reimbursement issues. Licensing of professions ensures a greater clarity of professional roles and training, which ultimately protects the consumer and provides a mechanism by which to advance clinical practice in a more systematic and peer-reviewed manner.

California has two licensing systems for Speech-Language Pathologists, the Board and the California Commission on Teacher Credentialing (CCTC). The CCTC issues credentials to SLPs who are employed by public schools and operate under the regulation of the Department of Education. The Board recognizes the misinterpretation that exists with exempt settings. The Board licensing office continues to receive inquiries from consumers, professionals, students and universities regarding ambiguity over multiple personnel standards and regulations, supervision standards, service responsibility, complaint processes, etc. Of the forty-eight (48) states that regulate the practice of speech-language pathology and the fifty (50) states that regulate the practice of audiology, seventeen (17) have embraced uniform regulation. Those states are: AZ, CT, DE, HI, IL, IN, KS, LA, MA, MD, MI, MT, NM, NC, OH, TX and VT. The profession does not make a distinction between educational speech-language pathology and medical speech-language pathology. Further, California licensed SLPs are authorized to practice in any setting including public schools (*CA Education Code 44831; AB 466 of 1999*). Many SLPs employed by public schools obtain both a license and a CCTC service credential to satisfy those public schools who have traditionally utilized *only* CCTC credentials and to qualify for teacher salaries and the permanent status contract provisions. While holding both authorizations is not mandatory, the existing system encourages new graduates to pay for and undergo two complex application processes, two distinct sets of renewal standards and fees, and adherence to two separating controlling practice laws and regulations. Clearly, operating under two regulatory systems creates confusion and additional costs for the affected professionals. Moreover, the consumers of speech-language and hearing services are unable to discern whether the separate authorizations denote a difference in training or professional acumen, which they do not as the university training programs for SLPs are all accredited by the Council of Academic Accreditation (CAA) of the American Speech-Language Hearing Association. The professional training prepares graduates to work with children and adults in all settings.

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## **ISSUE #2 Should the state continue to license audiologists?**

**Recommendation: Both the Department and the Committee recommended that the licensing and regulation of audiologists by the State of California be continued.**

**Comment:** Consumers (spanning in age from newborns to elderly) rely on audiologists to evaluate hearing and balance functions with a variety of techniques and instruments. Such tests require the application of sound, air pressure, electricity, and other physical stimuli in the ear and to the head—often involving instruments inserted into the ear canal. Any of the many types of hearing and balance tests contains risk that a subject may be physically harmed.

Harm can also result from inappropriate or incorrect interpretation of the results of hearing and balance tests. Failing to properly identify and assess a hearing disorder can delay referral for medical or rehabilitative care, or, in the case of pathological conditions, even result in irreversible medical consequences. With hearing-impaired children, delay can result in permanent language-development disorders. Similarly, over-referral can result in inappropriate and potentially hazardous medical intervention.

B&P Code § 2530.5 exempts from licensure audiologists in public or private elementary or secondary schools and those employed by federal agencies. No federal mandates require states to license or regulate audiologists. However, there are state requirements regarding Medi-Cal reimbursements for hearing aid sales to children, as well as Medi-Cal reimbursement for audiological services provided in both non-exempt and exempt settings. Most states regulate audiologists through licensure, while Colorado and Minnesota “registers” and Washington “certifies” audiologists, and no states have deregulated audiology. Four states and the District of Columbia do not regulate audiologists.

**Board Action: The SLPAHADB continues to license and regulate audiologists.**

The primary role of the Board is to provide critical oversight to professions that are essential to the health care of California’s citizens, but also has aspects that, if not regulated, could have a severe, negative impact on consumer protection.

University training programs prepare students to meet the rigorous demands of entry-level practice, which helps to explain the relatively low number of disciplinary actions each year in California, despite the significant risk to consumers by misdiagnosis or injury.

Audiologists serve a wide range of patients, from the newborn to the elderly, healthy to terminally ill, normal hearing to completely deaf. Audiology patient population numbers are increasing exponentially due to the increased aging of the population, as well as the advent of California’s newborn hearing screening (NBHS) program. Hearing loss is recognized as a significant health factor in most older adults. More than 80% hearing loss is not diagnosed or treated, yet untreated hearing loss has a significant impact on psychosocial health, and may lead to depression and dementia. Appropriate diagnosis and treatment, not only by fitting hearing aids but also by providing rehabilitation, counseling, and consideration of cochlear implantation, is the purview of the audiologist. Audiologists evaluate auditory and vestibular (balance) function with a wide variety of behavioral and objective (physiological and electrophysiological) techniques, using instruments requiring application of sound, air pressure, water, electricity, and electroacoustic stimuli to the ears and head, with potential physical risk. Audiologists routinely utilize otoscopic specula for ear-canal examination, cures for removal of ear wax from the ear canal, probe tips for measurements of middle and inner ear functions, probe tubes for measurement of hearing aid benefit, earphones for testing hearing sensitivity, and placement of electrodes/electrode paste for measuring the physiological integrity of the inner ear and auditory nerve and for monitoring auditory neural function during surgical procedures. Other instruments such as earlights and otoblocks are inserted into the ear canal during the injection of silicone impression materials for ear impressions for hearing aids, ear plugs, and swim plugs. Further, assessment of balance function carries some risk in that it requires procedures designed to



induce the sensation of motion in the patient that may result in a noxious sensation of vertigo with concomitant nausea and vomiting. All of these procedures carry varying degrees of physical risk, including puncture of the ear canal skin or eardrum, abrasion to post-surgical sites, electrical burn or allergic reaction of the skin to electrodes or electrode paste, electrical shock from ungrounded equipment, or damage to hearing or nerve function.

Also, audiologists provide specialized services that prevent consequences that may result from the lack of treatment to the consumer. The incidence of accidental falls among the elderly is of significant concern. Without appropriate training and a knowledge base of falls and balance (vestibular function), appropriate preventive intervention can be overlooked for this population.

In addition, with the state-mandated California NBHS program, audiologists are the diagnosticians for hearing loss through the use of electrophysiological measurements of the infant's hearing. With the advent of California's Newborn Hearing Screening Program (CNHS), there is a substantial need to define the required qualifications of a *Pediatric Audiologist*. This is a consumer protection issue and not merely a professional-practices issue. In the newborn infant, there is risk of mis-diagnosis with severe consequences. Mis-diagnosis can take the form of diagnosing a deaf baby as normal hearing (thereby delaying treatment, with substantial impact on speech and language development), or conversely, diagnosing a normal-hearing baby as deaf (and causing hearing aids to be fitted to a child with normal hearing, and potentially, facilitating the surgical placement of a cochlear implant into a normally-hearing ear). Also, parents are uncertain as to which audiologists have the knowledge and skills to evaluate their infants who fail newborn screening. The American Board of Audiology has recently (2012) launched a voluntary pediatric specialty recognition certification, requiring a minimum number of years of pediatric practice (5) and the passing of a validated examination. The decision to create specialty recognition was driven, in large measure, by the need to identify for parents, physicians and other consumers, appropriate diagnostic and treatment providers for infants at risk for, or having confirmed, hearing loss. California Children Services (CCS) has provided additional standards for pediatric audiologists based upon their facility type, experience of the audiologists, and the personnel and equipment available at that site. This is done to ensure appropriate audiological evaluations and hearing aid management (CCS Program Standards, 2002—need to update this date). While these resources are available to all audiologists, ABA certification is voluntary, and many audiologists who evaluate infants and young children do not participate in CCS. As such, there is need for the Board to provide standards and oversight of practice for all audiologists in the state who work with infants and young children having, or at risk for having, hearing impairment. In order for the California NBHSP to achieve maximum success in its goal of early diagnosis and intervention, audiologists must be competent to quickly and accurately diagnose the presence, type, degree and nature of hearing loss, and to initiate treatment (whether hearing aids, cochlear implants, enrollment in and access to American Sign Language environment, or a combination) as promptly as possible, in order to facilitate the child's (speech and) language development.

Continued regulation will be necessary to ensure the safety and efficacy of consumer services by audiologists. While audiologists are highly trained in the above procedures, these procedures represent a number of clinical risks that could develop into numerous negative realities without a licensing process that is continually developed, evaluated, and implemented by the Board. If there is no regulation governing the ever-changing and ever-expanding field of audiology, consumers may find themselves receiving care from providers who have substandard skills or inadequate treatment knowledge. Untrained providers of audiology services might incorrectly diagnose pathology, leading to inappropriate medical and non-medical management, or allow a medical condition to go untreated. Inappropriate training may also lead to over-referral, which can lead to wasteful, if not potentially hazardous, medical intervention. Physicians rely on the accuracy of information provided by audiologists and need to be able to identify qualified audiologists. Without regulation, consumers will have little recourse in the public domain to file complaints or seek resolution of their complaints. With the HIPAA regulations in place, patient privacy rights may be jeopardized.

California consumers in need of audiology services may receive a significantly reduced standard of care without a board that is able to provide practice standards and guidelines, continuing professional development (CPD) controls, regulatory oversight, and disciplinary action in conjunction with the state's Attorney General's Office.

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**ISSUE #3 Should the state license speech-language pathology assistants (SLPAs) as proposed by AB 205?**

**Recommendation:** Both the Department and the Committee generally recommended that all new licensure programs be required to go through a “sunrise” process, similar to that of sunset review, required under Section 9148 et seq. of the Government Code, and by the rules of the Senate Business and Professions Committee. The proposal for a new license category of “speech-language pathology assistant” had fulfilled this requirement. Therefore, the Joint Committee recommended the licensing of speech-language pathology assistants consistent with the actions of the Legislature.

**Comment:** AB 205 (Machado), which is being considered by the Legislature in the 1997-1998 Legislative Session, would create a new license category of “speech-language pathology assistant” under the jurisdiction of the Board.

AB 205 is sponsored by the California Speech-Language-Hearing Association (CSHA) and the California School Employees Association (CSEA) and is supported by the Board and numerous others. The proponents of the new licensing category argue that there is a severe shortage of SLPs and the current university programs are unable to produce an adequate supply of SLPs to meet the demands of schools, rehabilitative health facilities, long-term care facilities, and private practice settings. They argue that creation of a new mid-level practitioner category will relieve this shortage and take pressure off licensed SLPs.

That bill passed the Assembly 78-0, on consent and has been approved by the Business and Professions Committee. The sponsors have made AB 205 a two-year bill awaiting the results of the current sunset review hearings.

**BOARD ACTION:** Assembly Bill 205 (Machado), effective January 1, 1999, added Business and Professions Code Sections 2538, 2538.1, 2538.3, 2538.5, and 2538.7, which created the new paraprofessional registration category, speech-language pathology assistants (SLPAs). As support personnel under the supervision of licensed speech-language pathologists, SLPAs were created to assist in alleviating the severe shortage of speech-language pathology services available to meet the demands of the school settings, medical facilities, rehabilitative and long-term care facilities, and private practice.

During 1999-2000, the SLPAB experienced a temporary (6 month) governance shift and became a program under the Department of Consumer Affairs (DCA). This temporary shift delayed the adoption of the implementing regulations defining the registration and supervision requirements of the SLPA, as the DCA preferred that such requirements be reviewed and approved by a professional board. The regulations were adopted in April 2001 where educational requirements, registration criteria and supervision parameters were established (Article 12 Sections 1399.170- 1399.170.19 California Code of Regulations).

There were some initial challenges with the infusion of the SLPA category into the workforce:

Resistance by professionals who feel that only master's degree level personnel should serve communicatively handicapped individuals;

- 1) Education of employers and practitioners in the appropriate utilization of SLPAs;
- 2) Lack of specific authorization for use of SLPAs in various agency reimbursement and personnel policies (e.g., CMS Medicare, DHS Medi-Cal, DDS Early Start, CDE Special Education, etc.);
- 3) Limited number of community college SLPA programs in Northern California.

With the implementation of regulations authorizing BA-level applicants with field work experience in communicative disorders to become SLPAs, as well as the approval of out-of-state SLPA training programs, there are a growing number of graduates moving into the work place. Therefore, there exists the potential for misuse of services performed by SLPAs either due to lack of adequate orientation regarding the SLPA scope of responsibility and practice limitations, or as a consequence of operational/financial pressures. It will be important for the Board to carefully monitor the use of SLPAs in order to reinforce the appropriate supervision and utilization through public outreach and the complaint process, and to provide assistance of professionals and paraprofessionals with regard to regulatory interpretation.

***Should the SLPAB continue to register SLP aides in light of the new SLPA category?  
Should the grandfather provisions for aides to register as assistants continue indefinitely, or be extended?***

Prior to the establishment of the SLPA category, the only support personnel authorized for SLPs were speech-language pathology aides. These aide provisions (B&P Code Section 2530.6 , CCR Title 16 Sections 1399.154- 1399.154.7) continue in both licensing and education laws and regulations and are distinct in terms of the level of responsibility and required training to that of SLPAs. Speech aides are generally perceived as administrative aides or helpers under direct supervision. For this category of paraprofessional, the licensing system requires approval on a case-by-case basis and 100% on site supervision. The Education Codes require that aides function under direct supervision with no more than two speech aides per supervisor. In addition, the provisions state that the use of speech aides cannot increase supervisors' caseloads and must be noticed in the pupil's Individual Education Plan [CCR Title 5 Section 3051.1 (c)].

While having two recognized paraprofessional categories is confusing to the public, retaining the aide registration process has allowed the Board to educate employers and personnel of the distinction in duties and obligations between the two support personnel categories.

Under the grandfathering provisions of Senate Bill 50 statutes of 2001, on or before June 1, 2003, any SLP aide who performed tasks and support personnel services similar to the duties of a SLPA for the equivalent of one year of full-time work experience within the past five years was eligible to apply to the Board for registration as a SLPA. Those interested in transitioning to the SLPA category have since done so.

In 2006, the Board worked with the California Department of Education, California Speech-Language Hearing Association (CSHA), California Employee Schools Association, and Association of California School Administrators, to address the ever-changing special education provisions related to paraeducators and identify issues for the alignment of regulations of speech and language paraprofessionals so that each of these registration categories are trained and utilized appropriately. Legislation may be required to clarify reimbursement systems and agency regulations as to the utilization of SLPAs. This is necessary since there are several reports from public school personnel regarding "over use" of SLPAs in the schools (i.e., assigning SLPAs their own caseloads).

#### **ISSUE #4 Should the scope of practice for audiologists be expanded to include the practice of dispensing hearing aids?**

**Recommendation:** Both the DCA and the Joint Committee recommended that all proposals to further expand the scope of audiologists should be evaluated on a case-by-case basis and subjected to the requirement of “sunrise” review. The DCA and Committee further recommended that both SLPAB and the Hearing Aid Dispensers Examining Committee (or a merged board of the two) evaluate whether there are any health and safety risks posed by allowing audiologists to also sell hearing aids.

**Comment:** Business and Professions Code Section 3351.3 allows licensed audiologists, individuals supervised by an audiologist, and physicians and surgeons to fit hearing aids. However, they are not allowed to directly or indirectly engage in the sale or offering of hearing aids for sale. Hence, the audiologists are properly trained in the fitting of hearing aids, but not permitted to sell them.

The California Academy of Audiology (CAA), a professional association representing audiologists is proposing an expansion of scope of practice to include the dispensing of hearing aids under an audiology license. The CAA argues that audiologists are required to have a minimum of a master’s degree in the field of audiology—a field which encompasses the knowledge necessary to dispense hearing aids. By contrast, a hearing aid dispenser must have a minimum of a high school education pass a written and practical examination. Prior to passing the examination, applicants generally obtain a temporary license, and receive training under the supervision of a licensed dispenser. CAA states that 22 states already allow audiologists to dispense hearing instruments under their audiology license.

Proponents of this licensing expansion should be required to go through a “sunrise” process, similar to that of sunset review, required under Section 9148 et seq. of the Government Code, and by the rules of the Senate Business and Professions Committee. They should demonstrate whether audiology training is adequate to dispense hearing aids. Additional issues are: Does the national audiology examination cover the dispensing of hearing aids? Has the audiology examination and the hearing aid dispenser examination been evaluated as to whether they represent the knowledge, skills and abilities that are required to dispense hearing aids? Would allowing audiologists to dispense hearing aids benefit consumers or the profession?

**Board Response:** As mentioned throughout this report, Assembly Bill 1535, (Jones, Chapter 309, Statutes of 2009) merged the Speech-Language Pathology and Audiology Board with the Hearing Aid Dispensers Bureau to create the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board effective January 1, 2010. In addition to merging the two entities to form one Board, AB 1535 added Business and Professions Code Section 2539.1 which granted audiologists the authority to dispense hearing aids under the audiology license provided the audiologist met the prerequisite for passing both the hearing aid dispenser’s written and practical examinations. Licensed audiologists, who held valid and clear hearing aid dispensers licenses as of January 1, 2010, were deemed to have satisfied the prerequisite for dispensing hearing aids and were grandfathered into a dispensing audiology license. Any audiologist who did not hold the hearing aid dispensers

license as of January 1, 2010, is subject to the hearing aid dispenser's examination requirements to be authorized to dispense under the audiology license.

Currently, greater than 60% of audiologists licensed by the Board also hold the authorization to dispense hearing aids. Much debate has centered around whether the education and training required to hold an audiology license adequately prepares the practitioner to dispense hearing aids. In April 2008, Legal Counsel for the SLPAB reiterated that licensed audiologists were permitted to *conduct fitting procedures*, as provided for under the exemption in B&P Section 2538.22 (formerly Section 3351.3), but were required to hold a separate license to engage in the sell or offering for sale of hearing aids. Ostensibly, since the scope of practice of an audiologist, includes the fitting and selection of hearing aids, it seemed reasonable that the professional training to become an audiologist would adequately prepare the audiologist to competently dispense hearing aids.

During the legislative hearings on AB 1535, professionals on both sides of the argument provided support as to the necessary competency that must be measured in order to ensure the proper selection and fitting of hearing aids by a licensed professional. Among the most revealing testimony was the reported high failure rate of audiologists, greater than a 30% failure rate, on the hearing aid dispenser's practical examination. The discussion resulted in the Legislature both upholding the requirement for audiologists to take and pass the hearing aid dispenser's examinations in order to be authorized to dispense hearing aids, and calling for an updated validation study of the hearing aid dispenser's written and practical examinations. In 2012, the validation study was completed by OPES, with participation from both hearing aid dispensers and dispensing audiologists. The 2012 Validation Report for Hearing Aid Dispensers documents that the Board's examination program is job related and legally defensible as a licensing prerequisite.

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#### **ISSUE #5 Should the AuD degree, granted by an accredited institution, qualify an audiologist for licensure?**

**Recommendation:** The DCA did not address this issue. The Joint Committee recommended that the SLPAB should evaluate this proposal and report their recommendations to the Legislature.

**Comment:** CAA advocates allowing the degree Doctor of Audiology (Au. D.), granted by an accredited institution, to qualify an audiologist for licensure. CAA states that approximately four institutions are now granting this degree, and argues that the Board should recognize this degree as meeting the educational standards necessary for licensure in California.

**Board Action:** Senate Bill 821 (Statutes of 2009) added Business and Professions Code Section 2532.25 which changed the entry-level education and training requirements to be licensed as an audiologist and raised the terminal degree requirement from a master's

degree to a doctorate degree in audiology for any applicant graduating from an approved educational program on or after January 1, 2008. The amendment reflects the national training standards for audiology which began the transition from master's level professional training to a doctoral professional model well over a decade ago. There are no longer master's degree training programs in audiology in the country and California conferred its last master's degree in audiology in December 2007. Currently, one audiology training program, which has been in operation as a joint AuD program between San Diego State University and the University of California, San Diego since 2003, continues to enroll approximately seven to ten students per semester. The two higher education systems, the University of California and the California State University, began planning and directing the development of two new AuD programs (UCSF/SFSU and UCLA/CSUN) in 2005, but due to considerable budget constraints that plague the smaller more costly professional training programs, the plans stalled. Until new programs are in operation and are able to enroll students to full capacity, the state is not training an adequate number of new audiologists to meet the existing service delivery demands. It has been necessary for employers, to recruit a greater number of audiologists from other states by offering attractive relocation bonuses and higher salaries.

**ISSUE #6 Should the SLPs and audiologists be required to complete continuing education as a condition of license renewal, as recommended by the Board?**

**Recommendation:** The DCA concurred with the Joint Committee, that the SLPAB needs to clearly document the harm that consumers encounter without a mandatory continuing education requirement for licensees. The DCA does not believe that additional conditions for licensure should be adopted absent clear justification.

**Comment:** The Board recommends that a mandatory continuing education (CE) program for license or registration renewal be established. To that end, the Board supports AB 205 (Machado), which is being considered by the Legislature in the 1997-1998 Legislative Session, and would require SLPs, audiologists, and any aides (or assistants) to fulfill CE requirements as a condition of license or registration renewal. AB 205 passed the Assembly 78-0, on consent and also was approved by the Business and Professions Committee. The sponsors have made it a two-year bill awaiting the results of the current sunset review hearings.

A mandatory CE requirement would generate unspecified costs to licensees and generate corresponding revenues to CE providers. The Board would also incur costs in establishing CE standards and tracking licensee compliance. In the light of the low number of complaints by consumers and enforcement actions against licensees, what is the demonstrated need to mandate CE? The Board should address the justification for, cost, and availability of such continuing education.

It may be useful to draw a distinction between CE that is undertaken voluntarily by conscientious, motivated practitioners, versus CE that is undertaken involuntarily by unwilling or unmotivated practitioners. While continuing education seems intuitively to be

highly beneficial to licensees and the consumer public (especially for health care practitioners), there is no empirical evidence that demonstrates a clear conjunction between a CE mandate and improved practitioner competence.

The Board believes that continuing education in the two regulated professions is needed to assure that practitioners keep pace with the rapidly increasing technological advances and emerging treatment issues in today's health care. However, the Board states that licensees are evaluated by their employers and by hospitals as part of their accreditation requirements, and licensees receiving federal reimbursements are required to undergo reviews in order to bill and collect for services. It would appear that the existing evaluations and reviews would more appropriately insure that licensees continue their professional education rather than a CE program administered by a licensing Board.

An appropriate place for mandatory CE in this licensing program might be the one in the Board's proposed disciplinary guidelines, which include a provision requiring that educational courses be taken while a licensee is on probation for incompetence or negligence.

**Board Action:** *See Discussion Under Section 4- "Continuing Education/Competency Requirements."*

Forty states now maintain CPD requirements. CPD has and will continue to be critically important in learning new and appropriate strategies for providing services to individuals with speech, language, and hearing disorders. Methodologies must also be developed for providing services to California's ever-growing aging and culturally diverse populations. CPD is necessary for keeping abreast of technological advances in these fields and growth in the scopes of practice.

It is the standard of most professions to require continuing education hours. Although completion of CPD hours does not ensure competency or enhancement of skills, it does guarantee a minimum level of exposure to educational activities relating directly to the profession and, from that, an opportunity to advance if the practitioner exercises reasonable motivation and judgment regarding the selection of courses. Of great importance, too, is the probable perception of most consumers that CPD keeps professionals current in their practice, and thus adds to their overall confidence in the services of the professions.

**ISSUE #7 Should an electronic tracking system be implemented, as recommended by the Board, to obtain timely, accurate and complete licensing and enforcement data?**

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

**Comment:** The Joint Committee has historically supported the application of technology when it will improve the efficiency and effectiveness of any Board. However, the Board



must comply with the requirements of the Government Code and the State Administrative Manual to implement an electronic tracking system.

**Board Action:** The Board will be added to the Department's new BreEze system as of April 2013.

**ISSUE #8 Should the SLPAB further improve its internal procedures in order to shorten the time frame for processing licensing applications and issuing licenses?**

**Recommendation:** The Joint Committee recommended that the SLPAB should report to the Joint Committee by June 1, 1998, on whether it has established time lines for processing licensing applications and issuing licenses to qualified applicants. The SLPAB should also report on its procedure for processing incomplete applications.

**Comment:** Anecdotal evidence has been given to the Joint Committee which suggests that the Board may be slow in processing licensing applications. The Joint Committee may wish to have the Board report on its efforts to speed up the application and licensing process, and in particular, its efforts to contact applicants who submit incomplete applications.

**Board Action:** It is unclear whether such a report was ever produced and submitted to the Committee. The established time lines for reviewing applications and supporting documentation was once three to four weeks, but is now eight weeks for most of the year. Due to staff reductions and an overall 34% increase in the volume of applications received and a 19% increase in licenses issued over the past three fiscal years, it has been impossible for the Board to meet its internal processing timelines of less than four weeks to issue a provisional/permanent license.

Once the Board is able to take advantage of the automated new BreEze system, processing timelines should be substantially reduced as many of the document receipt and verification procedures currently handled through hand-mail processing, will be automated and web-based allowing applicants to upload and update their records.

In the interim, the Board is making progress toward streamlining its application review processes in order to reduce processing time lines. Such changes include: prioritizing the review of supporting documents and expediting any application or form that would trigger the issuance of a license, immediately scan forms and applications received for errors or missing information and promptly return to the applicant for refilling, and the use of email as the primary source for communicating with applicants regarding their application status.

**ISSUE #9 Should B & P 2535.3 and 2535.4 be amended to require the payment of "all accrued and unpaid renewal fees" in order to renew an expired license?**

**Recommendation:** Both the DCA and the Joint Committee recommended that Sections 2535.3 and 2535.4 be amended to require payment of all accrued and unpaid renewal fees in addition to the delinquency fee when an expired license is renewed.

**Comment:** There appears to be a loophole in the Speech-Language Pathologists and Audiologists Licensure Act regarding the collection of delinquent licensing fees. B&P Code § 2535.3 (and § 2535.4, for suspended licenses) permits a licensed speech-language pathologist or an audiologist to practice without paying a license renewal fee for up to *five years* after that license has expired, and then renew the delinquent license by paying a single licensing fee – “the renewal fee in effect on the last regular renewal date” – and a delinquency fee, but does not provide for any accruing late fees.

In recent years the Legislature has seen fit to close similar loopholes in the Nursing Home Administrators (§ 3924), Acupuncture (§ 4966) and Respiratory Care acts (§ 3774). It seems appropriate that the Joint Committee should consider recommending eliminating the current loophole for SLPs and audiologists and thereby conform this statute with other licensing acts, and thwart a source of possible revenue loss to the Board. Therefore, it would appear consistent to recommend amending §§ 2535.3 and 2535.4 to provide that a license may be renewed within that five-year period upon payment of all accrued and unpaid renewal fees and penalty fees required by the chapter.

**Board Action:** The Board worked with the DCA and amended Business and Professions Code Section 2535.2 (SB 349, Stats 2001) to require that licensees are responsible for all accrued and unpaid renewal and delinquency fees upon renewing an expired license.

**ISSUE #10 Should SLPAB be continued as an independent Board, merged with another similar licensing board or should its functions and operations be assumed by the Department?**

**Recommendation:** Both the Department and Committee staff recommend merging the Speech-Language Pathology and Audiology Board with the Hearing Aid Dispenser Examining Committee (HADEC). Any legislation enacted to continue a merged Board should require a subsequent sunset review within four years.

**Comment:** In recent years, the Legislature has moved toward consolidating regulatory Boards which license similar professions in an effort to improve the efficiency of consumer related Boards, eliminate duplicative or overlapping licensing functions and, at times, eliminate regulatory agencies which no longer serve the public need. Some examples are: (1) the separate Boards licensing barbers and cosmetologists were consolidated into the Board of Barbering and Cosmetology, (2) the licensing of both landscape architects and architects by the Board of Architectural Examiners.

It may be appropriate to consolidate the Speech-Language Pathology and Audiology Board and the Hearing Aid Dispenser Examining Committee into a single licensing Board for a number of reasons:

- a. The enforcement activity of the Speech-Language Pathologist and Audiologist Board is almost non-existent. In the last four years the Board received only 146 complaints. Only 11 complaints were referred for formal investigation, and 80 were handled “informally” (the Board handles minor complaints that pose no serious harm to the consumer in-house, i.e. “informally”). During that time the Board revoked only 1 license, and stayed revocation (probation) on 2 others. In each of the last four years, the Board has spent less than 25% of its budget on enforcement. In the last two years the Board has issued only 7 citations (none in FY 95/96).
- b. A substantial number are dual licensees under both Boards. Possibly the strongest argument for merger is that over 40% of hearing aid dispensers are also licensed as audiologists. There are 1,238 audiologists and 1,457 hearing aid dispensers licensed in the state.
- c. The Boards would be more effective if combined. A merger could achieve some economies of scale since both committees have very minimal staff (SPAB – 3.2 authorized positions; HADEC – 4.1 authorized positions). By combining staff and resources, enforcement activities could be increased.

Legislation which would have merged the two Boards was approved by both houses of the Legislature in 1994. SB 2037 (McCorquodale) would have, among other things, consolidated the Speech-Language Pathologists and Audiology Examining Committee and the Hearing Aid Dispensers Examining Committee, into a single Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board. That legislation embodied part of the recommendation of a Business and Professions Committee subcommittee chaired by then Senator McCorquodale. The subcommittee made its recommendation upon the same basis as the current proposed recommendation. That bill was never enacted since Senator McCorquodale dropped the bill (moved non-concurrence in Assembly amendments) due to reasons unrelated to the merger of these two Boards.

**Board Response:** See issue #8 Under the Hearing Aid Dispensers Previous Issues.

**ISSUE #11 If the SLPAB is merged with the HADB, then should the combined Board have a public member majority?**

**Recommendation:** The DCA recommended a public member majority for the combined board. Committee staff had recommended a 13 member board with 2 licensed audiologists, 2 hearing aid dispensers, 2 speech-language pathologists, and 7 public members.

**Comment:** The current composition of the Speech-Language Pathology and Audiology Board is made up of 3 SLPs, 3 audiologists, 3 public members -- 1 of which is a otolaryngologist (physician and surgeon), for a total of 9 members. The current composition of the Hearing Aid Dispensers Committee is 3 hearing aid dispensers, 2 public members, 1 audiologist, and 1 physician and surgeon certified in otolaryngology, for a total of 7 members. The Department is recommending that a combined board should have a public member majority and an odd number of members. Committee staff agrees. The composition recommended would seem to meet the requirements of having licensees adequately represented and still providing for a public majority.

**Board Response:** The concept of public members is very important and can be very beneficial. As a general rule, consumer protection is best served when consumers have a balanced representation on the boards, and consumers are generally represented by a board's public members. With the recent merger of the SLPAB and the HADB, and the regulation of three distinct professions under one Board, the governance structure of the Board has shifted to a plurality of public members. Each profession is represented by two professional members and there are a total of three public member seats on the Board. As such, the public member seats represent the majority of the membership. Any further reduction in professional members would compromise the technical expertise necessary to adequately govern each profession.

**Section 11 –  
New Issues**

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

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

#### **4. New issues raised by the Committee.**

##### **Clarifying the provisions of the Song Beverly Consumer Warranty Act (SBCWA)**

The Song Beverly Consumer Warranty Act, Section 1793.02 of the Civil Code provides warranty provisions for consumers of assistive devices. Hearing aids are an assistive device and as such, the product warranty or “right of return” provisions of the Song Beverly apply to the sell and refund of hearing aids. Historically, the provisions of Song Beverly have been difficult to enforce as the warranty language is vague and may be interpreted in several different ways.

At present, the lack of clarity of the Song Beverly Act as applied to warranty provisions for hearing aids is a detriment to both the consumer and the hearing aid dispenser selling the device. The provisions do not clearly define the terms of the 30-day trial period, which currently guarantees a full refund for the cost of the hearing aid(s), and all related services, if the purchaser is not satisfied with the hearing aids. The SBCWA includes the term, “completion of fitting” which is a definition not universally understood or “agreed upon” between the purchaser and the seller. As such, the hearing aid dispenser, as the seller, must determine the date the device is deemed “fit” and must ensure the purchaser is in agreement with the specified completion of fitting date, as the term implies some level of consumer satisfaction with the fit of the hearing aid. Often, an agreement can not be reached and the hearing aid dispenser is faced with on-going adjustments and exchanges of the device with no terminal end date to the initial “30-day trial period.” Basing the start of the warranty period on consumer satisfaction is difficult to define and enforce. In addition, the SBCWA does not adequately address timeframes when the hearing aid device may require adjustment or repair and is not in the possession of the purchaser for a period of time within the first 30-days. Other pertinent issues regarding hearing aid dispensing are not covered in the SBCWA, including, the number of “trial” devices a consumer is entitled to, documentation of non-possession of the hearing aid by the purchaser, any non-refundable services provided by the hearing aid dispenser that are not directly connected to the hearing aid device, etc.

The lack of clarity and specificity in the SBCWA results in disputes between consumers and hearing aid dispensers and ultimately some form of legal recourse, or mediation, is initiated. It is difficult for the Board to mediate such complaints when the parties involved have different interpretations of their rights and responsibilities and the underlying facts are difficult to substantiate.

Over 25% of complaints received by the Board each year are related to refunds on hearing aids. It has been the Board and previously the “Bureau’s” experience through the use of Complaint Resolution staff’s that when reviewing, investigating, and obtaining documentation to substantiate complaints related to refunds requested, refused or not received, that many complainants (mainly seniors) do not have records/documentation related to adjustments, replacements, or repairs of their hearing aids. This makes determining the facts of the complaint difficult, if not impossible at times. If the

allegations cannot be substantiated, the Board is unable to take administrative action, because there is insufficient evidence to confirm a violation of the law. Therefore, the complainant must then pursue resolution through Small Claims Court or a private legal action.

During the 2012 Legislative Session, the Hearing Healthcare Providers of CA with the support of the Board sponsored SB 1444 (Anderson), to amend the SBCWA to include an authorization for the Board to adopt implementing regulations to carry out the purposes and objectives of the warranty provisions, thereby, creating further clarity to the consumer's right of return for hearing aid devices. SB 1444 did move forward as there was concern expressed regarding the Board's purview over contractual issues, specifically matters involving express and implied terms.

The Board is interested in pursuing these necessary amendments. Another alternative, amending the Civil Code, would be for the Board to exempt hearing aids from the SBCWA entirely and craft language in the Business and Professions Code outlining the right of return for hearing aid devices. The Board is seeking the Senate Business, Professions, and Economic Development Committee's assistance in crafting legislation which would provide clarity regarding the consumer's right of return for hearing aid devices.

### **Services provided by Regional Centers for Deaf/Hearing Impaired Children**

The Regional Center system serves as the Part C (birth-3) Early Intervention Provider for infants and children who have both a hearing impairment and an additional disability (e.g., intellectual disability, autism).

The infant who has a hearing loss (is Deaf, or hard-of-hearing, referred to as D/HH) requires specialized services by individuals who have expertise in language (and speech) development in the D/HH infant or toddler and their family. Language development, including the development of oral speech, American Sign Language (ASL) or both, is time-sensitive, and the impact of delayed diagnosis and delayed intervention on the development of language has been well-documented in the research and education literature.

In spite of this, there are abundant reports from all over the state of D/HH children who receive Regional Center services that do NOT include specialized language and speech therapies.

One reported case—a child with Teacher-Collins Syndrome, in which the outer ears are completely absent at birth, being managed in a Central Valley Regional Center and never being referred for Audiologic diagnostic and treatment services. Only after the child transitioned to Part B services at age 3 was he referred to Audiology to address his hearing loss needs.

A similar case—Child was diagnosed with autism by the LA Regional Center at 2 years of age. He never had a hearing test. He's received autism therapy for over 1 year. In actuality he has severe to profound hearing loss.

Best practices, as outlined by the National Joint Committee on Infant Hearing (2012), stipulate that states/territories need to ensure that Early Intervention providers meet at least minimum criteria for experience and skills necessary to serve infants who are D/HH and their families. A primary goal of the EI program is to promote children's development of strong language skills, regardless of the route(s) taken by the family (spoken language, ASL, visually-supported spoken language). This is critical because it is widely recognized that well-developed language skills serve as a foundation for communication and literacy attainment.

Often, parents whose children are served in the Regional Center system do not know the qualifications and competencies of the service providers.

The hearing loss, because it is typically invisible until the child fails to develop speech and language, is easily over-looked when the child also has more visible impairments and delays, such as motor skills, intellectual development, etc.

It is urgent that the Regional Center system, statewide, be required to identify and vendor with Early Intervention personnel with knowledge and skills in the development of language and speech and/or ASL. Every child entering the Regional Center system must have evidence of a passed Newborn Hearing Screening, and if NBHS was not passed, evidence of Audiologic Diagnostic Evaluation and on-going audiologic and/or otologic care. Children who are being treated in the Regional Center system for delayed/aberrant language and communication must have an audiologic evaluation even if newborn hearing screening was passed (Risk factors for hearing loss include caregiver concern regarding hearing, speech or language development). Early Intervention providers must be knowledgeable about the impact of impaired hearing on communication development, skilled in the use of ASL and/or oral-language therapeutic approaches (depending on the preferences of the family), and have the credentials (license in Audiology, Speech-Language Pathology, and/or Credentialed Teacher of the Deaf/Hard of Hearing).

The Board has communicated with the Department of Developmental Services (DDS) on several occasions regarding its concerns with the services provided to D/HH children within the Regional Centers. While DDS has responded to the Board and has made attempts to communicate the Board's concerns to the California Department of Education, issues regarding the lack of appropriate services within Regional Centers remain.

The Board would be interested in the Legislature convening a task force to investigate and address such issues. The Board stands ready to assist and participate in finding solutions to an on-going and pervasive problem.

## **Unprofessional Conduct Provisions**

Existing Business and Professions Code Section 2533 provides for grounds upon which the Board may take disciplinary action against a license, however the provisions do not include grounds regarding a violation of a term or condition of a probationary order, or of a license issued by the Board.

At the recommendation of Board legal counsel, the Board is proposing the following legislative amendment in order to strengthen the Board's disciplinary authority to either revoke or impose further restrictions on the license of a licensee, who either violates their probationary terms, or is not in compliance with the conditions of a license issued by the Board. Absent this change, the Board must rely upon subsection (g) of 2533 and plead its case as to how the acts of noncompliance of probation or the terms of license, have endangered the health and safety of the public.

### **Proposed legislative change:**

#### **2533. Grounds for Action**

The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

- (a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof.
- (b) Securing a license by fraud or deceit.
- (c)
  - (1) the use or administering to himself or herself, of any controlled substance;
  - (2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely;
  - (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or
  - (4) any combination of paragraph (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.



- (d) Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.
- (e) Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.
- (f) Incompetence, gross negligence, or repeated negligent acts.
- (g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.
- (h) Use by a hearing aid dispenser of the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, except as authorized by law.
- (i) The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.
- (j) Any cause that would be grounds for denial of an application for a license.
- (k) Violation of Section 1689.6 or 1793.02 of the Civil Code.
- (l) *Violation of a term or condition of a probationary order or of a license issued by the board.*

### **Background Information on Applicants/Licensees- NPDB**

As explained under question 19b above, the Board does not currently have the resources to query the NPDB on applicants seeking licensure with the Board. The Board is interested in securing legislation that would require any applicant that holds, or has previously held, a license in another state, to produce a self-query report from the NPD database. Employing this method of query is cost effective for the Board, does not require an increase in licensing fees to off-set the Board's cost to query applicants on the NPDB, and places a lesser workload burden on licensing staff to research the database.

Proposed legislative change:

**2532.1. Applications**

- (a) Each person desiring to obtain a license shall make application to the board, upon a form as prescribed by the board.
- (b) A separate license shall be granted in both speech-language pathology and audiology. An applicant may be granted both licenses upon successful completion of the requirements for both licenses.
- (c) Any applicant who holds, or has previously held a health care license in another state or territory of the United States, shall produce to the Board a disciplinary data bank report.

**2538.24 Application for Licensure**

- (a) Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 2538.57.
- (b) Any applicant who holds, or has previously held a hearing aid dispensers license or any other health care license in another state or territory of the United States, shall produce to the Board a disciplinary data bank report.

**Section 12 –  
Attachments**

Please provide the following attachments:

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