



MEETING NOTICE & AGENDA **October 10-11, 2013**

Sheraton San Diego Hotel and Marina
1380 Harbor Island Drive
San Diego, CA 92101
Room: MARINA 5
(619) 272-5830

October 10, 2013 - 1:30 p.m. – the Hearing Aid Dispensers Committee Meeting

(Deane Manning-Committee Chair, Hearing Aid Dispenser; Amnon Shalev-Hearing Aid Dispenser; Alison Grimes-Dispensing Audiologist; Marcia Raggio- Dispensing Audiologist; Rodney Diaz-Otolaryngologist; Jaime Lee-Public Member)

- I. Call to Order
- II. Introductions
- III. Approval of the June 12, 2013 Hearing Aid Dispensers Committee Meeting Minutes
- IV. Development of Proposed Practice Guidelines for Hearing Aid Dispensing
- V. Consider Proposed Amendments to Continuing Education for Hearing Aid Dispensers (16 CCR 1399.140-1399.144)

Upon conclusion of the Hearing Aid Dispensers Committee Meeting - the Speech-Language Pathology Practice Committee Meeting

(Vacant-Committee Chair, Speech-Language Pathologist; Patti Solomon-Rice- Speech-Language Pathologist; Monty Martin- Public Member; Rodney Diaz-Otolaryngologist; Margaret Dee Parker- Speech Language Pathologist)

- I. Call to Order
- II. Introductions
Announcement of New Committee Member, Margaret Dee Parker, Speech-Language Pathologist
- III. Approval of the June 12, 2013, Speech-Language Pathology Practice Committee Meeting Minutes
- IV. Discussion Regarding the Evaluation of Internationally Trained Applicants for Licensure
 - A. Update on International English Language Testing System (IELTS) Project
 - B. Discuss Amendments to Existing Regulations (16 CCR 1399.152 & 1399.152.1)
- V. Consider Amendments to the Speech-Language Pathology Assistants (SLPA) Regulations (16 CCR 1399.170-1399.170.170.20.1) – Scope of Responsibility & Supervision Provisions
- VI. Discussion Regarding Credential Waivers Issued to Speech-Language Pathologists by the California Commission on Teacher Credentialing (CCTC)

Upon conclusion of the Speech-Language Pathology Practice Committee Meeting- the Audiology Practice Committee Meeting

(Alison Grimes-Committee Chair, Audiologist; Marcia Raggio- Audiologist; Rodney Diaz-Otolaryngologist; Jaime Lee- Public Member; Amnon Shalev-Hearing Aid Dispenser)

- I. Call to Order
- II. Introductions
- III. Approval of the June 12, 2013 Audiology Practice Committee Meeting Minutes
- IV. Develop Proposed Regulatory Amendments for Audiology Aide Supervision Standards and Practice Limitations (16 CCR 1399.154-1399.154.4)

October 11, 2013 – 8:00 a.m. Full Board Meeting of the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

(Alison Grimes, Board Chair-Dispensing Audiologist; Rodney Diaz-Otolaryngologist ;Patti Solomon-Rice, Vice Chair-Speech-Language Pathologist; Carol Murphy-Speech-Language Pathologist; Monty Martin-Public Member; Jaime Lee-Public Member; Deane Manning-Hearing Aid Dispenser; Amnon Shalev-Hearing Aid Dispenser; Marcia Raggio-Dispensing Audiologist)

- I. Call to Order
- II. Introductions
- III. Approval of Meeting Minutes:
 - A. June 12-13, 2013 Board Meeting Minutes
 - B. September 11, 2013 Telephonic Board Meeting Minutes
- IV. Hearing on Petition for Reinstatement of Revoked License- John Jakobic

CLOSED SESSION

- V. The Board will meet in closed session pursuant to Government Code Section 11126(c)(3) to discuss and vote on this matter and other disciplinary matters including stipulations, proposed decisions, and petitions

RETURN TO OPEN SESSION

- VI. Executive Officer's Report
 - A. Budget Update
 - C. Administrative Updates- BreEze/ Staff Recruitment/ Operational Updates
 - D. Update on Exemption Request of the Federal Drug Administration on Mail Order and Catalog Sales of Hearing Aids
- VII. Legislative Update
 - A. SB 305Lieu- Sunset Bill
 - B. AB 1000 –Maienschein & Wieckowski– Professional Corporations: Healing Arts Practitioners
 - C. AB 186 Maienschein- Temporary Licenses-Military Spouse
 - D. SB 129 – Wright -Deaf and disabled telecommunications program
 - E. SB 176 – Galgiani – Administrative Procedures

VIII. Practice Committee Reports

- A. Hearing Aid Dispensers Committee Report and Recommendations on the Development of a Practice Guideline Document for Hearing Aid Dispensing & Proposed Regulatory Amendments to Continuing Education Requirements
- B. Speech-Language Pathology Practice Committee Report and Recommendations on the Discussion of Internationally Trained Students and Proposed Regulatory Amendments, Proposed Regulatory Amendments Regarding the Scope of Responsibility and Supervision Standards for Speech-Language Pathology Assistants
- C. Audiology Practice Committee Report and Recommendations on the Discussion Regarding the Proposed Regulations for Audiology Aide Supervision Standards, Training, and Practice Limitations

IX. Licensing/Enforcement/Examination Statistical Data

X. Public Comment on Items Not on the Agenda/ Future Agenda Items- Pending Issues Before the Board

XI. Announcements- Future 2014 Board Meetings- February 6-7, 2014 Los Angeles

XII. Adjournment

MEETING AGENDAS AND MATERIALS CAN BE FOUND ON THE SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD'S WEBSITE AT www.speechandhearing.ca.gov

A quorum of the Board may be present at the Committee meetings. Board members who are not on the Committee may observe, but may not participate or vote. Each Committee meeting will begin with voluntary introduction of attendees.

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

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

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

Note: The meeting as noticed will be broadcast live via webcast http://www.dca.ca.gov/publications/multimedia/webcast_current.shtml



HEARING AID DISPENSERS MEETING MINUTES

June 12, 2013

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

Committee Members Present

Deane Manning, Chair, Hearing Aid Dispenser
Marcia Raggio, Dispensing Audiologist
Amnon Shalev, Hearing Aid Dispenser
Alison Grimes, Dispensing Audiologist
Jaime Lee, Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel
Breanne Humphreys, Program Manager

Committee Members Absent

Rodney Diaz, Otolaryngologist

Board Members Present

Patti Solomon-Rice, Speech-Language Pathologist
Carol Murphy, Speech-Language Pathologist

Guests Present

Cindy Beyer, HearUSA
Jami Tanihana, HearUSA
Tricia Hunter, HHP CA
Linda Pippert, Alpha Vista Services, CSHA
Meghan Giffin, Alpha Vista Services
Jean Jackson, EBS Healthcare
Dennis Van Vleit, Audiologist

I. Call to Order

Chairperson Manning called the meeting to order at 1:40 p.m.

II. Introductions

Those in attendance introduced themselves.

Chairperson Manning appointed board members Marcia Raggio and Jaime Lee to the Committee to meet the Committee structure as defined in statute.

III. Approval of the January 10, 2013 Hearing Aid Dispensers Committee Meeting Minutes

M/S/C: Grimes/Raggio

The Committee voted to accept the minutes of the January 10, 2013 Committee minutes as amended.

IV. Review Proposed Amendments Regarding the Hearing Aid Dispenser’s Advertising Regulations and Related Guidelines (California Code of Regulations Section 1399.127)

Ms. Del Mugnaio referenced the proposed regulatory amendments as provided in the meeting materials. She stated that the Committee had asked Ms. Del Mugnaio and Ms. Yazigi to modify the language from the January 2013 meeting to reflect the provisions that apply to dispensing audiologists and to conduct research regarding the advertising provisions for Dispensing Opticians.

Ms. Yazigi explained that the Dispensing Optician is a business not an individual. The advertising provisions apply to companies not individuals and as such are not consistent with advertising regulations for hearing aid dispensers and dispensing audiologists.

Ms. Del Mugnaio explained the provisions apply only to advertisements published on behalf of a licensee. However, there is a catchall provision that prohibits corporations or any business from advertising in a false and misleading manner.

Ms. Grimes requested that the word “only” be inserted before the type of hearing test that may be performed by a hearing aid dispenser in the proposed provision, *“For hearing aid dispensers, if advertising a hearing test, state that such test is being performed **only** to properly fit, and sell hearing aids.*

M/S/C: Grimes/Lee

The Committee moved to recommend to the Board that the Board approve the proposed text with the insertion of the word “only” in subdivision (b)(2) and notice the proposed changes for a 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and further delegate the authority of the Executive Officer to make any technical and non-substantive changes that may be required in completing the rulemaking file.

V. Development of a Proposed Standard of Care Document for the Practice of Hearing Aid Dispensing

Ms. Del Mugnaio explained that the draft document included in the meeting materials is intended to be a guideline for expert witnesses to reference when evaluating standard of care issues in Board enforcement cases.

Ms. Grimes inquired whether the document is intended to apply to both hearing aid dispensers and audiologists.

Ms. Del Mugnaio stated that it may apply to both in the selection and fitting of a hearing aid.

Ms. Grimes stated that it seems reasonable that the standard of care of scope of practice for hearing aid dispensers should be derived from the blue print of the hearing aid dispensers’ examinations.

Ms. Del Mugnaio explained that the outline was developed based on the hearing aid dispenser’s examination validation study. She pointed out a few grammatical changes and requested the Committee

review the section on under “Fitting Verification and Measurement” and decide whether speech mapping and real ear measurement are acceptable in terms of industry standards.

Ms. Tricia Hunter inquired whether the document is intended to document a scope of practice and if it is, there may be a legal challenge since the document is not a regulation or statute.

Ms. Yazigi explained that the document should not reflect a scope of practice, but a reference document with points of discussion for experts to rely on when determining whether they believe a deviation of standard of care exists. She stated the document preamble should be changed to reflect the information as a content guideline for experts.

Ms. Del Mugnaio explained that the Board needs to develop a guidance document to assist experts in enforcement proceedings.

Ms. Grimes suggested that the scope of the project be clearly defined as writing a scope of practice document is an extremely complex and time-consuming project.

Ms. Grimes suggested that the Committee members provide individual comment on the document to Ms. Del Mugnaio and that the collective suggestions be brought back to the Committee for review.

Ms. Del Mugnaio stated that she would email the document to the Committee members and summarize the comments received to be presented at the October Committee meeting.

VI. Review of Approved Continuing Education Courses for Hearing Aid Dispensers on Related Professional Topics

Ms. Del Mugnaio referenced a continuing education (CE) table, as included in the meeting materials, listing Board approved courses and providers. She referenced courses that are approved but may not be discipline-specific, rather the courses are “related” to the practice of hearing aid dispensing. Ms. Del Mugnaio further stated that the courses listed in the document that are currently defined as “manufacturer” courses would no longer be acceptable if the proposed regulatory changes are adopted. She commented that there may be an issue with hearing aid dispensers finding applicable or approved CE courses. She explained that the document is informational only.

Ms. Grimes suggested that the Board be open to expanding the CE regulations to accept more self-study hours since there are many quality and comprehensive courses being offered through self-study.

Ms. Del Mugnaio stated that the Board should move to the next agenda item since the discussion is transitioning to regulatory provisions and not individual courses.

Tricia Hunter and Ms. Raggio both commented that they have no issue with the CE course offerings at their respective association conferences. They commented that the providers are receptive to developing courses that are educational and not product specific and are eager to provide information on technological advances in a general format.

VII. Consider Proposed Amendments to Continuing Education for Hearing Aid Dispensers (California Code of Regulations 1399.140-1399.144)

Ms. Del Mugnaio explained that in reviewing the proposed regulatory changes, she noted a few inconsistencies. She stated that courses in business practices are listed as outside the acceptable course content area, but the term business practices appears in other provisions as applicable.

Ms. Del Mugnaio made note of the suggested substantive changes to proposed regulations:

- Section 1399.140 (a) - Changing the operative date in subdivision (a), to reflect January 1, 2015, to allow for ample time for licensees to comply with the new provisions once adopted.
- Section 1399.140(b)- Establishing that course completion documents shall be maintained for 2 years, which is consistent with speech-language pathologists and audiologists.
- Section 1399.141(a)(1) - Striking “business practices” from the required description of course content.
- Section 1399.141(a)(2)- Striking “business practices” from the indirect client care course examples.
- Section 1399.141(a)(3) – Striking neurological disorders from the examples of related courses.
-

Ms. Grimes advocated for removing the limit on self-study and add language to require that each self-study course have a mandatory post-test the licensee must complete to obtain credit for the course.

Ms. Grimes inquired whether there is a regulation requiring that CE courses be open to all licensees.

Ms. Del Mugnaio confirmed that there is a regulation requiring that CE courses be open to all licensees.

Chairperson Manning and Mr. Shelev commented that the balance between the nine (9) hours of live courses and the three (3) hours of self-study is an appropriate balance.

Ms. Raggio stated that she receives positive feedback about the in-person presentations from attendees of the professional conference.

Ms. Yazigi suggested the following changes:

- Add clarifying language be added to Section 1399.140(a)(2) explaining which courses are not subject to the three (3) hour self-study limitation.
- Add the word “as” to Section 1399.141 (a)(1) in the section...*shall be current practices “as” related to the fitting of hearing aids.*
- Amend Section 1399.141(a)(4) to refer to the training and experience in teaching courses....and delete the term “certification” from that provision.
- Make grammatical changes to Section 1399.141(c) regarding the notification of the final decision within ten (10) days of the appeal.

M/S/C: Grimes/Raggio

The Committee recommended to the full Board that the proposed CE regulations for hearing aid dispensers be adopted as amended (see amendments above).

Ms. Del Mugnaio requested the Committee to review a CE chart included in the meeting materials that will be posted on website to inform licensees of the current CE requirements and that being proposed in the regulatory amendments.

Chairperson Manning adjourned the meeting at 3:32 p.m.

Practice Guidelines for Hearing Aid Dispensing

Task: Develop a reference document for experts to utilize in reviewing enforcement cases to determine whether a standard of care issue is a factor in the case.

Principles of Professional Ethics:

- 1) *Shall be licensed in California ~~and~~ be of sound moral character, and ~~must~~ comply with all state and federal laws and regulations.*
- 2) *Shall be ethical in all business practices and shall refrain from: perpetrating the false representation of products or services; exploiting clients for the purpose of financial gain; and committing any acts of fraud.*
- 3) *Shall provide safe and efficacious services to their client.*
- 4) *Shall be knowledgeable regarding testing procedures, hearing aid technology, verification and validation methods, and the laws and regulations governing the practices of hearing aid dispensing.*
- 5) *Shall remain current in the knowledge and skills in all aspects of the profession. (Continuing Education)*

I. Client Assessment

- Patient History
 - Prior medical conditions related to ears and hearing, ear-or ear-related surgeries, mental health or substance-abuse issues
AG- (I question whether hearing aid dispensers have the knowledge/skills to inquire about and manage mental health and substance abuse issues).
MR- mental health or substance-abuse issues (I don't understand the point of having to know these aspects of a patient's history).
 - Prior experience with hearing instruments/devices
MR- Assessment of communication breakdowns
 - Family/social considerations regarding hearing problems
 - Ear/hearing-specific history (e.g., onset of hearing loss)
 - Communication needs/requirements (e.g., work safety)
- Identify Conditions Requiring a Referral for Medical Evaluation/Treatment (FDA/State Law)
- Communication needs/requirements
- HIPAA Disclosures

II. Ear Inspection

- Perform Safe Support Technique- Otosopic Examination
 - Assess size, length, and formation of ear canal
RCD- Assess auricle, external auditory canal, tympanic membrane
- INDICATIONS FOR REFERRAL TO PHYSICIAN:**

- Presence of ~~Determine whether any blockage or cerumen or other ear canal blockage is present~~
 - Presence of blood, foreign object, PE tube, pus/drainage
 - Presence of congenital or acquired ~~D~~deformities
 - ◆ ~~Refer client to physician or audiologist~~
 - Examine the tympanic membrane
AG - ~~Examine~~Observe
 - Assess external ear
 - Determine whether any blockage or cerumen is present
AG- that would prevent the taking of an ear impression (cerumen is almost always present)
 - Presence of blood, foreign object, PE tube, pus/drainage
 - Deformities
 - Refer client to physician or audiologist
MR- (not sure why a referral to an audiologist would be appropriate for any medical conditions).

III. Testing Procedures

- Audiometric Assessment (Check Equipment for Proper Functioning)
 - Pure tone air conduction (masking)
 - Pure tone bone conduction (masking)
MR- Most comfortable loudness
 - Speech discrimination
MR- Word Recognition
 - Speech reception threshold
MR- Speech Recognition Threshold
 - Speech stimuli/Threshold of discomfort
AG- ~~Threshold of discomfort not necessary~~
- Audiometric Interpretation
 - Evaluate test results
 - Advise client of results
 - Check prior test results to determine reliability/validity
MR- , and possible progression or changes in hearing loss

IV. Candidacy & Selection

- Determine type and degree of loss and appropriate amplification
- Candidacy based on physical/life style/client functionality
MR- Candidacy based on degree of hearing loss/ physical/life style/client functionality
- Select technology including client preferences for features and price
- Inform client of legal obligations regarding purchase, return policies, refunds, replacements, exchanges, & expectations regarding adjustments

V. Ear Impression

- Evaluate ear for placement of otoblock
- Placement and verification of proper otoblock placement
DM- Placement of otoblock
Pre-Impression otoscopy to ensure Placement and verification of proper otoblock placement
- Insert impression material using proper safe-support technique
- Remove impression
- Post-impresion otoscopy to ensure no remaining material or abrasion
MR- Post-impresion otoscopy to ensure no impression material remains in the ear canal(s) or any abrasion is noted.

VI. Evaluating Hearing Instrument

- Determine proper equipment/mold received is correct and functioning
MR - Perform an electroacoustic analysis of the hearing aid(s).

VII. Fitting

- Verify physical fit
- Adjustments (electroacoustic characteristics)
AG - Inquire about comfort with acoustic fit
Counsel about need to acclimatize to new auditory inputs
MR- Provide hearing aid adjustments as needed (electroacoustic characteristics)
- Instruction/Demonstration to client
DM- Verify client can insert and remove hearing aid
Demonstrate use of volume control and/or program button and any other ancillary items such as remote control
Demonstrate proper care of hearing aid
 - Ensure information provided about safe battery use and disposal
- Counsel client on expectations
MR- Counsel client on expectations and good communication habits
- Fitting verification measurements (Speech Mapping/RealEar Measurement) MR- (, self-report scale)
- If using wireless devices, query patient regarding pacemaker

VIII. Hearing Aid Orientation/Expectations

- Frequency of use
- How to manage ear pain
MR- (this is rarely an issue)
- Becoming accustomed to hearing aid use
- Limitations of amplification/Hearing in Noise
MR- Cleaning and battery changes

IX. Postfitting

- Assess performance of hearing instrument – testing

MR- Determine patient adaptation and aid usage

- Service or repair
- Follow-up and assistance with client needs

Parking Lot

➤ Sanitation

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

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

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

Section 1399.140 - Continuing Education Required.

(a) Any hearing aid license that expires on or after January 31, 2015, Each dispenser is required to complete at least six (6) twelve (12) hours of continuing education from a provider approved under Section 1399.141 below during each calendar year preceding one-year renewal period. For all licenses which expire on and after January 1, 1997, all holders of licenses shall complete nine (9) hours of continuing education per year, and n.

(1) Not more than three (3) hours of continuing education may be credited in any of the following areas related to hearing aids: related, or indirect client care courses as provided in Section 1399.140.1 ethics (including the ethics of advertising and marketing) or business practices.

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

(b) Records showing completion of each continuing education course shall be maintained by the dispenser for two (2) years following the renewal period.

~~(b)~~ (c) Each dispenser renewing his or her license under the provisions of Section 3451 2538.53 of the code shall be required to submit proof satisfactory to the board of compliance with the provisions of this article. Records shall be provided to the Board in response to a compliance audit conducted.

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

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

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

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

Note: Authority ~~and reference~~ cited: Section ~~3327.5~~ 2531.95, Business and Professions Code.
Reference: Section 2538.18 Business and Professions Code.

Section 1399.140.1 - Continuing Education Course Content

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

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

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

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

(b) Examples of courses that are considered outside the scope of acceptable course content include: personal finances and business matters; marketing and sales, and office operations that are not for the benefit of the consumer.

Note: Authority cited: Section 2531.95, Business and Professions Code. Reference: Section 2538.18 Business and Professions Code.

1399.141. Approval of Continuing Education Providers.

(a) In order to be approved by the ~~bureau~~ board as a continuing education provider the following information shall be submitted with an application, incorporated herein by reference, forms () provided by the bureau board:

(1) Description of course content of all courses to be offered. The course content for all courses, including ethics, shall be current practices as related to the fitting of hearing aids for aiding or compensating for impaired human hearing or any of the subjects listed in subsection (a) of section 1399.140, be within the scope of practice for a dispenser as defined by the Code and generally shall be for the benefit of the consumer. The course content shall be information related to the fitting of hearing aids, and this information shall be at a level above that basic knowledge required for licensure as set forth in Section ~~3353~~ 2538.25 of the Code, except that basic knowledge which would serve as a brief introduction to the course. The phrase “at a level above that basic knowledge” means any subjects, issues, topics, theories, or findings that are more advanced than the entry level of knowledge of the practice of fitting or selling hearing aids as provided in Section 2538.11 of the Code ~~described in those basic subjects listed in subdivision (b) of Section 3353.~~

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

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

(4) Qualifications of instructors. Instructors shall be qualified to teach the specified course content by virtue of their prior education, training and experience. A provider shall

ensure that an instructor teaching a course has at least two of the following minimum qualifications:

(A) A license, registration, or certificate in an area related to the subject matter of the course. The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by the board or any other health care regulatory agency;

(B) Training or experience in teaching courses in the subject matter; or

(C) At least two years' experience in an area related to the subject matter of the course.

A resume of each instructor shall be forwarded with the application for approval.

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

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

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

(c) Applications for approval of a continuing education provider shall be submitted to the ~~bureau~~ board at its Sacramento office ~~at least 45 days before the date of the first course or program offering to be approved~~ allowing for sufficient time for review and prior approval as follows. The board will inform the provider within 30 days of receipt of the application whether the application is complete or deficient. The provider shall cure any deficiency within 30 days of such notice. The board will approve or deny the application within 30 days of the date that the application is complete, or the last date to cure the deficiency. A provider may appeal to the executive officer of the board the denial of approval of any course. Such appeal shall be filed with the executive officer of the board not more than 30 days after the date of notice of such denial. The executive officer shall notify the provider of the final decision within ten (10) days of the appeal.

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

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

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

Note: Authority cited: Section ~~3327.5~~ 2531.95, Business and Professions Code. Reference: Section ~~3327.5~~ 2538.18, Business and Professions Code.

1399.142. Sanctions for Noncompliance.

(a) Any dispenser who does not complete the required number of hours of continuing education will be required to make up any deficiency during the next calendar year and renewal cycle. Such dispenser shall document to the ~~bureau~~ board the completion of any deficient hours. Any dispenser who fails to make up the deficient hours and the hours of required continuing education for the current year shall be ineligible for the next renewal of his

or her license to dispense hearing aids until such time as the deficient hours of continuing education are documented to the ~~bureau~~ board.

(b) In addition to any other sanction, ~~F~~fraudulently misrepresenting compliance with the continuing education requirements of Section ~~3327.5~~ 2538.18 of the code and this article shall constitute “obtaining a license by fraud or deceit” as those terms are used in Section ~~3401~~ 2533, subd. ~~(e)~~ (b), of the code.

Note: Authority cited: Sections ~~3327.5 and 3328~~ 2531.95, Business and Professions Code.
Reference: Section ~~3327.5~~ 2538.18, Business and Professions Code.

1399.143. Repetition of Courses.

Credit will not be given toward approved continuing education coursework which is substantially similar to coursework which was successfully completed within the preceding ~~three (3)~~ two (2) years and used to meet the continuing education requirements of this article and Section ~~3327.5~~ 2538.18 of the code.

Note: Authority ~~and reference~~ cited: Section ~~3327.5~~ 2331.95, Business and Professions Code.
Reference: Section 2538.18, Business and Professions Code.

1399.144. Waiver of Requirement.

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

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

Note: Authority ~~and reference~~ cited: Section ~~3327.5~~ 2331.95, Business and Professions Code.
Reference: Section 2538.18, Business and Professions Code.



**SPEECH-LANGUAGE PATHOLOGY PRACTICE COMMITTEE
MINUTES**

June 12, 2013

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

Committee Members Present

Carol Murphy, Chair, Speech-Language Pathologist
Patti Solomon-Rice, Speech-Language Pathologist

Board Member Present

Alison Grimes, Dispensing Audiologist
Marcia Raggio, Dispensing Audiologist
Deane Manning, Hearing Aid Dispenser
Amnon Shalev, Hearing Aid Dispenser
Jaime Lee, Public Member

Committee Members Absent

Rodney Diaz, Otolaryngologist
Monty Martin, Public Member

Guests Present

Cindy Beyer, HearUSA
Jami Tanihana, HearUSA
Tricia Hunter, HHP CA
Linda Pippert, Alpha Vista Services, CSHA
Meghan Giffin, Alpha Vista Services
Jean Jackson, EBS Healthcare
Dennis Van Vleit, Audiologist

Staff Present

Annemarie Del Mugnaio, Executive Officer
Clair Yazigi, Legal Counsel
Breanne Humphreys, Program Manager

I. Call to Order

Chairperson Murphy called the meeting to order at 3:40 p.m. She announced that the committee does not have a quorum and that the meeting would be informational only.

II. Introductions

Those present introduced themselves.

III. Discussion Regarding the Evaluation of Internationally Trained Applicants for Licensure

A. Update on International English Language Testing System (IELTS) Project

Ms. Del Mugnaio reported that the Office of Professional Examination Services (OPES) is working with the Board and our Subject Matter Experts to conduct a standard setting workshop on the IELTS examination. She stated that the intent of the workshop is to establish a passing score for the IELTS examination specific to the necessary language competencies of a speech-language pathologist. Ms. Del Mugnaio reported that the workshop should be held sometime late summer 2013.

B. Discuss Amendments to Existing Regulations (CCR 1399.152 & 1399.152.1)

Ms. Del Mugnaio explained the issue surrounding the existing provisions of CCR 1399.152 and 1399.152.1. She stated that the regulations were intended to establish a framework for evaluating the equivalent qualifications of foreign trained applicants. However, the provisions do not address the equivalency standards are isolated to those trained in another country. Ms. Del Mugnaio stated that the academic standards in the regulations do not define the statute (Business and Professions Code 2532.2(b), but rather set a different entry-level standard. She stated that the regulations require a foreign educated applicant to demonstrate completion of at least thirty (30) semester units acceptable towards a master's degree while registered as a graduate student in a degree program in speech-language pathology or audiology. Ms. Del Mugnaio explained that the statute BPC 2532.2 (b) requires that at least twenty-four (24) units must be related to disorders of speech, voice, or language for speech-language pathology. She requested Ms. Solomon-Rice to assist her with understanding the current academic framework of accredited training programs to better understand how the statute and the regulations are in harmony and establish a minimum standard for equivalent qualifications.

Ms. Solomon-Rice made suggestions that the regulations include the major content areas as reflected in the American Speech-Language Hearing Association's (ASHA's) 2014 Standards and Implementation Procedures for the Certificate of Clinical Competence in Speech-Language Pathology.

Ms. Del Mugnaio stated that since the Committee is being conducted as informational only, the discussion will be taken up in the full Board meeting, in terms of how the Board should move forward.

IV. Review of National Standards for Speech-Language Pathology Assistants (SLPA) & Consideration of Regulation Amendments to Existing SLPA Provisions

Ms. Del Mugnaio reviewed the current regulations for SLPAs and the amended regulations as approved by the Board at previous Board meetings. She stated that Ms. Solomon-Rice suggested that the Board review the new ASHA 2013 document regarding the SLPA scope of practice. Ms.

Del Mugnaio reported that Ms. Murphy forwarded a document, *Guidelines for the Speech-Language Pathology Assistant (SLPA) Duties and the Responsibilities in Early Intervention* created by the California Speech-Language-Hearing Association (CSHA) and the California Interagency Coordinating Council (ICC) on Early Intervention to the other Board members for review. She asked that they consider whether the current regulations address the responsibilities of an SLPA in early intervention services.

Ms. Murphy inquired whether SLPAs may be supervised by speech-language pathologists who are operating on a credential waiver.

Ms. Del Mugnaio reported that the supervisor must have a clear and valid credential to supervise an SLPA according to current law and regulation.

Ms. Solomon-Rice inquired whether current regulations address the following guidelines as documented in the ASHA and the CSHA/ICC document:

- The maximum number of full-time SLPAs a supervisor may supervise.

Ms. Del Mugnaio referenced the current regulations specifying that a supervisor may supervise a maximum of two (2) SLPAs.

- A minimum amount of supervision that must be provided an SLPA during the first 90 days and a minimum amount of supervision following the first 90 days.

Ms. Del Mugnaio reported that there are no provisions requiring a specific amount of supervision during the first 90 days or thereafter, but rather the supervision provisions in regulation address the type of supervision that must be provided to an SLPA depending upon the services being provided by the SLPA and the medical state of the client/student, e.g., a medically-fragile client/student

- A guideline for addressing a supervisor's extended absence in terms of either requiring a substitute supervisor.

Ms. Del Mugnaio stated that current provisions do not specifically address interim absences of an SLPA supervisor, but state that an SLPA may not perform duties without adequate supervision.

Ms. Del Mugnaio stated that any proposed changes to the current SLPA regulations must be addressed in the full Board meeting.

Chairperson Murphy adjourned the meeting at 4:15 p.m.

LAWS AND REGULATIONS OUTLINING ACADEMIC EQUIVALENCY

- Current provisions in the Board's laws and regulations do not specify that academic equivalency is intended only for internationally trained students. This may result in graduates from unaccredited U.S. programs petitioning for equivalency, which defeats the intent of the law.
- Terminology used in the laws and regulations is not consistent with international professional training. Terms such as "graduate courses" or "semester units" may not apply. However, transcript evaluation services provide for a conversion of credits awarded at foreign institutions into U.S. academic units.
- Work to define equivalency based on completion of specified content areas or a total number of units awarded within a professional degree program. *Should any undergraduate coursework be identified here?*

Business & Professions Code [Law] (Bold =emphasis added)

2532.2. Qualifications for Licensure

Except as required by Section 2532.25, to be eligible for licensure by the board as a speech-language pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master's degree in speech-language pathology or audiology from an educational institution approved by the board **or qualifications deemed equivalent by the board.**

(b) **Submit transcripts from an educational institution approved by the board evidencing the successful completion of at least 60 semester units of courses related to anatomy and physiology of speech, swallowing, and hearing; neuroanatomy; acoustics of speech; psychoacoustics of hearing; speech and language development; neurological aspects of language; phonetics; articulation and phonology; motor speech disorders; fluency; voice and resonance; child language disorders; adult language disorders; aural rehabilitation; swallowing; communication modalities; clinical methods; and audiology/audiometry. Also, each applicant shall have completed general coursework in biological science, physical science, social and behavioral science, and a statistics course. ~~the normal development, function, and use of speech, hearing, and language; and courses that provide information about, and training in, the management of speech, hearing, and language disorders.~~ At least 24 of the required 60 semester units shall be related to disorders of speech, voice, or language for speech-language pathology applicants or to disorders of hearing and the modification of communication disorders involving speech and language resulting from hearing disorders for audiology applicants. These 60 units required courses do not include credit for thesis, dissertation, or clinical practice.**

(c) Submit evidence of the satisfactory completion of supervised clinical practice with individuals representative of a wide spectrum of ages and communication disorders. The

board shall establish by regulation the required number of clock hours, not to exceed 300 clock hours, of supervised clinical practice necessary for the applicant. The clinical practice shall be under the direction of an educational institution approved by the board.

(d) Submit evidence of no less than 36 weeks of satisfactorily completed supervised professional full-time experience or 72 weeks of professional part-time experience obtained under the supervision of a licensed speech-language pathologist or audiologist or a speech-language pathologist or audiologist having qualifications deemed equivalent by the board. This experience shall be evaluated and approved by the board. The required professional experience shall follow completion of the requirements listed in subdivisions (a), (b), and (c). Full time is defined as at least 36 weeks in a calendar year and a minimum of 30 hours per week. Part time is defined as a minimum of 72 weeks and a minimum of 15 hours per week.

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

A speech-language pathologist or audiologist who holds a license from another state or territory of the United States or who holds equivalent qualifications as determined by the board and who has completed no less than one year of full-time continuous employment as a speech-language pathologist or audiologist within the past three years is exempt from the supervised professional experience in subdivision (d).

(f) As applied to licensure as an audiologist, this section shall apply to applicants who graduated from an approved educational institution on or before December 31, 2007.

California Code of Regulations

[Proposed changes are shown in underline and strikeout; Emphasis added to existing regulation language shown in bold]

1399.152. Approved Institutions.

(a) For the purposes of this Section, the term "institution" means the facility where a student attends and receives his or her primary academic and clinical preparation including the institution's satellite sites or campuses. The term "joint program" means a program wherein each of the member institutions is a separate degree-granting entity.

(b) An "institution approved by the board" as used in Section 2532.2 of the code is defined as:

(1) An educational institution (or in the case of a joint program, educational institutions) that is accredited by a regional or national accrediting body recognized by the United States Department of Education, and

(2) Has program accreditation in the area for which licensure is sought by an accrediting body recognized by the United States Department of Education or the Council on Higher Education Accreditation (CHEA) or its predecessor, the Council on Postsecondary Accreditation (COPA), or a comparable accrediting body recognized by the Board.

(c) A graduate speech-language pathology or audiology program shall be accredited or shall be designated as a program in candidacy by the accrediting body authorized by the American Speech-Language-Hearing Association at the time of the applicant's graduation.

(d) A post-baccalaureate audiology doctoral program shall be accredited or shall be designated as a program in candidacy by the accrediting body authorized by the American Speech-Language-Hearing Association or shall be accredited or shall be designated as a program in candidacy by another accrediting body as specified in subsection (b) above.

(e) In its discretion the board may approve after its review any educational program, with academic and clinical requirements equivalent to an accredited graduate or doctoral training program as provided for above, but, which is not accredited under one of the above mentioned criteria and is not within the United States.

1399.152.1. Academic Requirements.

(a) As used in Section 2532.2, subd. (a) of the code, "**qualifications deemed equivalent by the board**" means in lieu of a master's degree an applicant may present evidence of completion of coursework equivalent to 69 semester units or credits at least 30 semester units acceptable towards a master's degree while registered as a graduate student in a degree program in speech-language pathology and/or audiology located outside the United States. At least 234- of the required semester units documented courses shall be in speech-language pathology and shall include the content of the topics listed in Section 2532.2(b). ~~completed at a single educational institution and shall be in speech-language pathology or audiology.~~

(b) Credits for extension courses shall be accepted toward the unit requirements of Section 2532.2, subd. (b) of the code only if they are a part of the regular graduate curriculum and are accepted toward a graduate degree by the educational institution attended.

(c) The "successful completion" of a course as these terms are used in Section 2532.2, subd. (b) of the code means the student earned a grade of "C" or better or its equivalent.

(d) If the content of a course is not adequately depicted within its title, the board in its discretion may require additional course descriptions.

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



**Foreign-Educated Speech-Language Pathology Licensure Applicants
Proficiency in Speech-Language Pathology
Report to the SLPAHAD Board
August 2013**

Patti Solomon-Rice
Marcia Raggio

Background

Relative to the licensing process for US-trained speech-language pathologists, the process for foreign-educated speech-language pathologists is much more complex. The coursework completed by the foreign-educated speech-language pathologist must initially be transcribed by an approved evaluation service if the individual has been trained in an English or non-English speaking country, and units/grades must be converted to US equivalencies. Next, the transcript is reviewed by an expert witness in speech-language pathology. The expert witness completes a Coursework Evaluation Report, which indicates whether the foreign-educated speech-language pathologist meets the minimum academic requirements and supervised clinical experience to apply for a temporary speech-language pathology license in California. [The RPE]

It is the responsibility of the expert witness to determine whether the coursework completed by the foreign-trained speech-language pathologist demonstrates “qualifications deemed equivalent by the board,” (Title 16, California Code of Regulations, Section 1399.152.1) These regulations further state that the academic requirements for foreign-educated speech-language pathologists include completion of an equivalent of at least 30 semester units acceptable toward a master’s degree, with at least 24 of the required semester units completed at a single educational institution in speech-language pathology (Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, 2013a). Current regulations addressing speech-language pathology supervised clinical experience under Section 1399.152.2 state that the foreign-trained SLP is required to be supervised by a speech-language pathologist having qualifications deemed equivalent by the board. In addition, the student must complete a minimum of 275 clock hours in speech-language pathology on or before December 31, 1992, or 300 clock hours in three different settings after December 31, 1992, with a maximum of 25 clock hours completed in a minor field (Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, 2013b).

Purpose of the Report

It has come to the attention of SLPAHADB that there are foreign-trained speech-language pathologists who are licensed and practicing in California, but who do not appear to demonstrate academic or clinical competency as speech-language pathologists. In addition, it is clear that there are a number of differences between units of credit awarded in the US versus those in foreign countries used to meet advanced degree requirements. The curriculum in some countries includes extensive training at the undergraduate level, but does not offer a master’s degree in speech-language pathology. For these reasons and others, SLPAHADB is reviewing and revising, as needed, the academic and supervised clinical experience requirements for trained speech-language pathologists applying for temporary licenses.

Academic and Supervised Clinical Experience Standards in the United States Effective September 1, 2014

The Council for Clinical Certification in Audiology and Speech-Language Pathology (CFCC), a semi-autonomous council affiliated with the American Speech-Language-Hearing Association, defines standards for clinical certification in speech-language pathology and applies the standards in granting certification to individuals. CFCC recently revised the national standards to practice as a speech-language pathologist, effective September 1, 2014 (Council for Clinical Certification in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association, 2012). SLPAHADB has traditionally applied CFCC certification standards to speech-language pathologists applying for state licensure.

The CFCC 2014 academic standards require completion of a minimum of 36 semester units at the graduate level with competencies in general education knowledge; basic human communication processes; swallowing processes; and specific knowledge, as well as knowledge of prevention, assessment and intervention, in the big nine areas of speech-language pathology. These areas include: articulation, fluency, voice and resonance, receptive/expressive language in children, hearing, swallowing, cognitive aspects of communication, social aspects of communication, and communication modalities. These competencies can be obtained at both the undergraduate and graduate levels (Council for Clinical Certification in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association, 2012).

The CFCC 2014 clinical standards for supervised clinical experience require completion of a minimum of 400 clinical clock hours, including a minimum of 25 observation hours, of which 325 clinical clock hours must be completed at the graduate level (Council for Clinical Certification in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association, 2012).

Methodology

Participants

There are 16 universities in California offering undergraduate major/graduate programs or undergraduate certificate/graduate programs in speech-language pathology. Undergraduate certificate programs are intended for students who have majored in an area other than speech-language pathology when completing the bachelor's degree. Certificate programs allow students to complete required undergraduate academic coursework prior to enrolling in graduate level coursework in speech-language pathology. There are also two undergraduate only programs, one providing a major in speech-language pathology, and the other providing a certificate in speech-language pathology for students who majored in areas other than speech-language pathology.

Identification of Academic Competencies

A review of the CFCC September 1, 2014 standards was completed to identify specific academic and clinical competency requirements. A list of academic Knowledge And Skills Acquisition (KASA) competencies that must be demonstrated by speech-language pathology students graduating with a master's degree was created. These competencies were converted to specific course topics typically found in California undergraduate and graduate curriculum in speech-language pathology. *Appendix A* lists the course topics found in California undergraduate and

graduate curricula in speech-language pathology that align with CFCC academic KASA competencies.

Data Collection for Academic Competencies and Supervised Clinical Experience

A spreadsheet was created listing the 18 universities on one axis and listing the course topics plus several additional course topics required at some California universities on the other axis. The required undergraduate and graduate courses of the 16 universities in California offering undergraduate/master’s degrees in speech-language pathology and the two universities offering undergraduate/undergraduate certificate only programs were matched with the course topics according to program course descriptions. *Appendix B* provides a description of the course topics and course descriptions. Data was also collected on the number of required units and required courses for the undergraduate major/certificate and the master’s degree.

The completed spreadsheet listed all required academic courses offered at the undergraduate and graduate levels by topic content, plus a few other required academic courses offered by at least two university programs in California. As a result, some courses were listed several times on the spreadsheet as course descriptions covered several course topics.

Supervised clinical experience requirements were also reviewed across the 16 universities with graduate programs to identify requirements for completing clinical clock hours, types of settings and clinic instructor qualifications.

Results

Undergraduate and Graduate Required Units and Courses

The total number of undergraduate and graduate academic units required across universities with undergraduate or undergraduate certificate/master’s programs, ranged from 69 to 116 (quarter units were converted to semester units). The total number of undergraduate courses required ranged from 7 to 25 while the total number of graduate academic courses required ranged from 19 to 31. The university offering the fewest number of combined undergraduate and graduate courses consisted of 23 courses and 69 units.

Academic Competencies

The number and percentage of universities offering courses in specific topic areas noted as KASA competencies is found in Table 1.

Table 1: Number and Percent of Universities Offering Courses in Specific Topics

Course Topic	Number of Universities (N = 18)	Percentage
Introduction to Communicative Disorders	14	78%
Anatomy and Physiology of Speech	18	100%
Anatomy and Physiology of Swallowing	18	100%
Anatomy and Physiology of Hearing	18	100%
Neuroanatomy	18	100%
Acoustics of Speech	18	100%

Psychological Aspects of Speech	14	78%
Psychoacoustics of Hearing	17	94%
Psychological Aspects of Hearing	14	78%
Speech Development	18	100%
Psychological Aspects of Language	14	78%
Neurological Aspects of Language	18	100%
Language Development	18	100%
Phonetics	17	94%
Articulation/Phonology	18	100%
Motor Speech Disorders	18	100%
Fluency	18	100%
Voice and Resonance	18	100%
Child Language: Receptive/Expressive Semantics/Syntax/Morphology/Phonology	18	100%
Adult Language: Receptive/Expressive (aphasia)	18	100%
Aural Rehabilitation	18	100%
Swallowing	18	100%
Cognitive Aspects of Communication (TBI)	15	83%
Social Aspects of Communication (ASD)	12	67%
Communication Modalities	17	94%
Clinical Methods	17	94%
Research Methods	15	83%
School-Based Issues	11	61%
Counseling	10	56%
Multi-Cultural Aspects	13	72%
Observation	9	50%
Oro-Facial Anomalies & Syndromes	6	33%
CAPD	7	39%
Audiology/Audiometry	18	100%

Table 1 results indicate the following topics were required by more than 90% of the California universities:

- Anatomy and Physiology of Speech
- Anatomy and Physiology of Swallowing
- Anatomy and Physiology of Hearing
- Neuroanatomy
- Acoustics of Speech
- Psychoacoustics of Hearing
- Speech Development
- Neurological Aspects of Language
- Language Development
- Phonetics
- Articulation/Phonology

Motor Speech Disorders
Fluency
Voice and Resonance
Child Language: Receptive/Expressive Semantics/Syntax/Morphology/Phonology
Adult Language: Receptive/Expressive (aphasia/motor speech/TBI)
Aural Rehabilitation
Swallowing
Communication Modalities (AAC)
Clinical Methods
Audiology/Audiometry

Supervised Clinical Experience Competencies

Supervised clinical experiences were found to be nearly identical across California universities and all universities met the 2014 CFCC standards. All universities provided: a) several on-campus clinical practicum experiences, with the exception of one university in which practicum was offered in an out-patient medical center, b) one semester/quarter of supervised clinical practicum in a school setting, and c) one semester/quarter of supervised clinical practicum in a medical setting. All universities required a minimum of 400 clinical clock hours consisting of a minimum of 325 clock hours at the graduate level, 25 observations hours, and 375 direct contact hours. All speech-language pathology clinic instructors were required to be licensed as speech-language pathologists in California and certified as speech-language pathologists by ASHA.

Summary of the Results

Regarding academic requirements, the least number of academic courses offered at the undergraduate and graduate level was 23 courses for a total of 69 semester units.

The following course content was required in at least 90% of California universities:

Anatomy and Physiology of Speech
Anatomy and Physiology of Swallowing
Anatomy and Physiology of Hearing
Neuroanatomy
Acoustics of Speech
Psychoacoustics of Hearing
Speech Development
Neurological Aspects of Language
Language Development
Phonetics
Articulation/Phonology
Motor Speech Disorders
Fluency
Voice and Resonance
Child Language: Receptive/Expressive Semantics/Syntax/Morphology/Phonology
Adult Language: Receptive/Expressive (aphasia/TBI)
Aural Rehabilitation
Swallowing

Communication Modalities (AAC)
Clinical Methods
Audiology/Audiometry

Supervised clinical experiences were consistent across the universities. All universities required a minimum of 400 clinical clock hours consisting of a minimum of 25 observation hours and 375 direct contact hours. Of the 375 direct contact hours, at least 325 were completed at the graduate level. All supervisors held California licenses and ASHA certification in speech-language pathology.

Recommended Competencies for Foreign-Educated Speech-Language Pathologists

Demonstration of completion of the following academic coursework and supervised clinical experience are recommended as meeting the minimal competencies required of foreign-educated speech-language pathologists who wish to be licensed in California. It is further recommended that the individual obtain an equivalent grade of C- or better in each required course and an overall equivalent GPA of 3.00.

- 1) Biological science course
- 2) Physical science course
- 3) Social/behavioral science course
- 4) Statistics course
- 5) Minimum of 23 courses in speech-language pathology
- 6) Minimum of 69 units (converted to semester hours)
- 7) Course content must address those topics noted in the 90% of offered courses noted above.
- 8) Supervised clinical experience consisting of a minimum of 375 direct contact hours and 25 observation hours
- 9) Supervisors who are licensed and/or certified or have the equivalent to practice as speech-language pathologists in their home country.

References

- Council for Clinical Certification in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association. (2012). 2014 Standards for the Certificate of Clinical Competence in Speech-Language Pathology. Retrieved [date] from <http://www.asha.org/Certification/2014-Speech-Language-Pathology-Certification-Standards/>.
- Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (2013a). *Title 16 California Code of Regulations: Article 3.1399.152.1*. Retrieved from <http://www.speechandhearing.ca.gov>.
- Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (2013b). *Title 16 California Code of Regulations: Article 3.1399.152.2*. Retrieved from <http://www.speechandhearing.ca.gov>.

Appendix A
California Speech-Language Pathology Course Topics
Aligned with CFCC Academic Competencies

- 1) Biological Science course
- 2) Physical Science course
- 3) Statistics course
- 4) Social/Behavioral Science course
- 5) Anatomy and physiology of speech and swallowing mechanism
- 6) Anatomy and physiology of hearing mechanism
- 7) Psychological and acoustic aspects of speech
- 8) Psychological and acoustic aspects of hearing
- 9) Psychological and neurological aspects of language
- 10) Speech and language development across the lifespan
- 11) Phonetics of American English
- 12) Articulation principles, prevention, assessment and intervention
- 13) Fluency principles, prevention, assessment and intervention
- 14) Voice and resonance principles, prevention, assessment and intervention
- 15) Receptive/expressive language principles, prevention, assessment and intervention (including phonology, morphology, syntax, semantics and pragmatics) for speaking, listening, reading, writing and manual modalities for children
- 16) Receptive/expressive language principles, prevention, assessment and intervention for speaking, listening, reading, writing and manual modalities for adults (aphasia and motor speech)
- 17) Hearing (aural rehabilitation) principles, prevention, assessment and intervention
- 18) Swallowing principles, prevention, assessment and intervention
- 19) Cognitive aspects of communication (TBI) principles, prevention, assessment and intervention
- 20) Social aspects of communication (autism) principles, prevention, assessment and intervention
- 21) Communication modalities (AAC) principles, prevention, assessment and intervention
- 22) Clinical methods in speech-language pathology
- 23) Research methods in speech-language pathology
- 24) School-based regulations, policies and service delivery in California and the US

Appendix B
Course Descriptions of
California Speech-Language Pathology Course Topics

Biological science: Biology, human anatomy and physiology, neuroanatomy and neurophysiology, human genetics or veterinary science

Physical science: Physics or chemistry

Statistics: Stand-alone statistics course

Social/behavioral science: Psychology, sociology, anthropology or public health

Anatomy and physiology of speech and swallowing mechanism: Anatomy and physiology of speech and swallowing including respiration, phonation, resonance, articulation and perception

Anatomy and physiology of hearing mechanism: Anatomy and physiology of the hearing mechanism including perception

Psychological and acoustic aspects of speech: Processes underlying the production, perception and acoustics of speech; normal psychological processes and principles of speech

Psychological and acoustic aspects of hearing: Processes underlying the acoustic aspects of sound and its' measurement; normal hearing processes and principles

Psychological and neurological aspects of language: Anatomy and physiology of the central and peripheral nervous system; psychological and neurological aspects of language

Speech and language development across the lifespan: Typical acquisition and development of speech and language including principles and theories

Phonetics of American English: Description, analysis and phonetic transcription of typically produced and disordered speech

Articulation and Phonology: Principles, prevention, assessment and intervention of articulation and phonological disorders

Fluency: Principles, prevention, assessment and intervention of fluency disorders across the lifespan

Voice and resonance: Principles, prevention, assessment and intervention of voice disorders across the life span

Receptive/expressive language in children: Principles, prevention, assessment and intervention (including phonology, morphology, syntax, semantics and pragmatics) for speaking, listening, reading, writing and manual modalities for children

Receptive/expressive language in adults: Principles, prevention, assessment and intervention for speaking, listening, reading, writing and manual modalities for adults with aphasia, dementia and motor speech disorders

Hearing: Aural rehabilitation principles, prevention, assessment and intervention for individuals with hearing impairment across the lifespan

Swallowing: Principles, prevention, assessment and intervention of swallowing disorders across the lifespan

Cognitive aspects of communication: Principles, prevention, assessment and intervention of TBI

Social aspects of communication: Principles, prevention, assessment and intervention of children with autism spectrum disorders

Communication modalities: Principles, prevention, assessment and intervention of individuals who benefit from augmentative and alternative communication across the lifespan

Clinical methods in speech-language pathology: Assessment procedures, intervention principles and report writing across the big nine disorders areas and across clinical settings

Research methods in speech-language pathology: Quantitative and qualitative methods for designing and conducting research in the field of speech-language pathology

School-based issues: State and federal laws regarding special education; state and federal school-based regulations and policies; service delivery in the schools related to speech-language pathology; the IEP/IFSP process



Responses Back From State Boards - SLPA Supervision

An email regarding the supervision of SLPAs was sent to all of the boards that were members of the National Council of State Boards in Speech-Language Pathology and Audiology (NCSB) that regulated SLPAs. Some boards do not license SLPAs but do regulate them, while others have no regulations regarding SLPAs. The following is a summary of the responses I received back followed by the emailed responses themselves.

Summary

***Alabama** requires that a supervisor be in the same building as the SLPA and must document through direct observation at least 10% of all clinical services provided by the assistant.*

***Arkansas** has regulations that are similar to ASHA's recommendations and includes references to supervision after the first 90 days which can be adjusted as per SLPA skill level and necessity. There are audits conducted every year.*

***Florida** requires the SLP to be in the same building as the SLPA and to conduct quarterly performance reviews the first year and annually thereafter; these may be audited by the licensing board.*

***Iowa** does not license SLPAs but regulates them. The SLP or Aud develops a plan wherein the assistant is to be used, under what conditions, and in what facilities. There is "periodic" direct supervision.*

***Kentucky** requires one hour a week of direct supervision and one hour a week of indirect supervision, both documented, unless the SLP decides that the SLPA requires more supervision.*

***Maine** requires the supervisor to be in the same building at all times.*

***New Jersey** does not regulate SLPAs*

***North Carolina** has a 50 mile maximum between the SLP supervisor and SLPA and recommends that the two meet weekly for the SLP to sign protocols.*

***Ohio** has SLP Aides that are licensed, have less education than would be expected in other states that regulate assistants and require direct and/or immediate supervision.*

Oregon has an audit every year of SLPAs, requires documentation of supervision, signed by both parties and be available for an audit. Direct supervision is defined similar to CA. In remote geographic areas of the state or in other situations with severe shortages of licensed personnel, where Direct Supervision requirements cannot be met by an on-site Speech-Language Pathologist, educational facilities may apply for a one year exemption from certain requirements for supervision of certified Speech-Language Pathology Assistants.

ASHA

The ASHA Speech-Language Pathology Assistant Scope of Practice states the minimum requirements for the frequency and amount of supervision of support personnel as follows:

The first 90 workdays: A total of at least 30% supervision, including at least 20% direct and 10% indirect supervision, is required weekly. Direct supervision of student, patient, and client care should be no less than 20% of the actual student, patient, and client contact time weekly for each SLPA. This ensures that the supervisor will have direct contact time with the SLPA as well as with the student, patient, or client. During each week, data on every student, patient, and client seen by the SLPA should be reviewed by the supervisor. In addition, the direct supervision should be scheduled so that all students, patients, and clients seen by the assistant are directly supervised in a timely manner. Supervision days and time of day (morning/afternoon) may be alternated to ensure that all students, patients, and clients receive some direct contact with the SLP **at least once every 2 weeks.**

After the first 90 workdays: The amount of supervision can be adjusted if the supervising SLP determines the SLPA has met appropriate competencies and skill levels with a variety of communication and related disorders.

Minimum ongoing supervision must always include documentation of direct supervision provided by the SLP to each student, patient, or client **at least every 60 calendar days.**

A minimum of 1 hour of direct supervision weekly and as much indirect supervision as needed to facilitate the delivery of quality services must be maintained.

Documentation of all supervisory activities, both direct and indirect, must be accurately recorded.

Further, 100% direct supervision of SLPAs for medically fragile students, patients, or clients is required.

The supervising SLP is responsible for designing and implementing a supervisory plan that ensures the highest standard of quality care can be maintained for students, patients, and clients. The amount and type of supervision required should be consistent with the skills and experience of the SLPA; the needs of the students, patients, and clients; the service setting; the tasks assigned; and the laws and regulations that govern SLPAs. Treatment of the student, patient, or client remains the responsibility of the supervisor.

Direct supervision means on-site, in-view observation and guidance while a clinical activity is performed by the assistant. This can include the supervising SLP viewing and communicating with the SLPA via telecommunication technology as the SLPA provides clinical services, because this allows the SLP to provide ongoing immediate feedback. Direct supervision does not include reviewing a taped session at a later time.

Supervision feedback should provide information about the quality of the SLPA's performance of assigned tasks and should verify that clinical activity is limited to tasks specified in the SLPA's ASHA-approved responsibilities. Information obtained during direct supervision may include, but is not limited to, data relative to (a) agreement (reliability) between the assistant and the supervisor on correct/incorrect recording of target behavior, (b) accuracy in implementation of assigned treatment procedures, (c) accuracy in recording data, and (d) ability to interact effectively with the patient, client, or student during presentation and application of assigned therapeutic procedures or activities.

Indirect supervision does not require the SLP to be physically present or available via telecommunication in real time while the SLPA is providing services. Indirect supervisory activities may include demonstration tapes, record review, review and evaluation of audio- or videotaped sessions, and/or supervisory conferences that may be conducted by telephone and/or live, secure webcam via the Internet. The SLP will review each treatment plan as needed for timely implementation of modifications.

An SLPA may not perform tasks when a supervising SLP cannot be reached by personal contact, phone, pager, or other immediate or electronic means. If for any reason (i.e., maternity leave, illness, change of jobs) the supervisor is no longer

available to provide the level of supervision stipulated, the SLPA may not perform assigned tasks until an ASHA-certified and/or state-licensed SLP with experience and training in supervision has been designated as the new supervising SLP.

Any supervising SLP who will not be able to supervise an SLPA for more than 1 week will need to (a) inform the SLPA of the planned absence and (b) make other arrangements for the SLPA's supervision of services while the SLP is unavailable or (c) inform the clients/student/patients that services will be rescheduled.

State laws vary and may differ from ASHA's guidelines and requirements. Check specific state regulations to determine amount of supervision required and qualifications for supervisors of assistants in a particular state.

Alabama

The supervisor must physically be in the same building as the SLP/A. The supervisor must also document direct observation of at least 10% of all clinical services provided by the assistant.

If more information is needed, please contact me.

Thanks,

Wanda C. Rawlinson, Director

Alabama Board of Examiners for Speech Language

Pathology and Audiology (ABESPA)

Email: abespa@mindspring.com

Web Address: www.abespa.org

Telephone: 334-269-1434

Fax: 334-834-9618

Arkansas

12.12 SUPERVISION GUIDELINES FOR A SPEECH-LANGUAGE PATHOLOGY ASSISTANT

- A. A total of at least 30% direct and indirect supervision is required and must be documented for the first ninety (90) workdays. (For a 40 hour work week, this would be 12 hours for both direct and indirect supervision.) Documented direct supervision of patient/client care shall be required no less than 20% of the actual patient/client contact time weekly for each speech-language pathology assistant. During each week, data on every

patient/client seen by the speech-language pathology assistant must be reviewed by the supervisor. In addition, the 20% direct supervision must be scheduled so that all patients/clients seen by the assistant are directly supervised in a timely manner. Supervision days and time of day (morning/afternoon) must be alternated to ensure that all patients/clients receive direct contact with the speech-language pathologist at least once every two (2) weeks. Information obtained during direct supervision must include data relative to (a) agreement (reliability) between the assistant and the supervisor on correct/incorrect recording of target behavior, (b) accuracy in implementation of screening and treatment procedures, (c) accuracy in recording data, and (d) ability to interact effectively with the patient/client.

- B. Indirect supervision is required no less than 10% of the actual patient/client contact time and may include demonstration, record review, review and evaluation of audio or videotaped sessions, interactive television, and/or supervisory conferences that may be conducted by telephone. Treatment data must be reviewed at least weekly or every five (5) sessions for each case. The speech-language pathologist will review each plan of care as needed for timely implementation of modifications.
- C. After the initial ninety (90) day work period, the amount of supervision may be adjusted depending on the competency of the assistant, the needs of the patients/clients served, and the nature of the assigned tasks. The minimum is 20% documented supervision, with no less than 10% being direct supervision. (For a 40-hour work week, this is 8 hours of supervision, at least 4 of which is direct supervision.) Supervision days and time of day (morning/afternoon) must be alternated to ensure that all patients/clients receive direct contact with the speech-language pathologist at least once every two (2) weeks.
- D. A supervising speech-language pathologist must be able to be reached by personal contact, phone, pager, or other immediate means at all times when direct patient/client care is being rendered. If, for any reason (i.e., extended leave, illness, change of jobs), the supervisor is no longer available to provide the level of supervision stipulated, the speech-language pathology assistant may not perform direct patient/client care until a qualified and licensed speech-language pathologist has been designated as the speech-language pathology assistant's supervisor and ABESPA has advised approval of the change.
- E. Whenever the SLP-Assistant's performance is judged by the supervising speech-language pathologist to be unsatisfactory over two (2) consecutive observations, the SLP-Assistant shall be retrained in the necessary skills and direct observations shall be increased to 50% of all clinical sessions until the SLP-Assistant's performance is judged to be satisfactory, through written documentation, over two (2) consecutive observations.

12.13 ANNUAL AUDIT

On or before January 30 of each calendar year, at least ten percent (10%) of the assistants currently registered will be audited by ABESPA. The SLP-Assistants audited will be chosen in a random manner.

12.14 FEES AND PENALTIES *

- A. The following fees are payable to ABESPA:

1. Initial Registration (Non-refundable): \$45.00
2. Renewal of Registration (Annual): \$40.00
3. Change of Supervision: \$15.00
4. Late Renewal Penalty: \$20.00 per full month elapsed (not to exceed \$80.00 annually) The individual may not resume practice until s/he receives notification of renewal from the Board office.
5. Late Notice of Change in Employment Setting: \$50.00
6. Insufficient funds fee (\$25): A fee of \$25 shall be charged to reprocess a check returned for insufficient funds.

* Speech-language pathology assistants submitting application to the Arkansas Department of Education are exempted from fees listed in Section A above.

B. A civil penalty of up to \$1,000.00 per violation in addition to revocation or suspension may be imposed on a registrant and/or supervisor if:

- registrant begins work as a SLP-Assistant before they are technically approved for registration or continues to work after the registration has expired;
- registrant practices outside the scope of responsibility as set forth in the following section titled "Scope of Responsibility of the Speech-Language Pathology Assistant";
- registrant practices without adequate supervision;
- registrant and/or supervisor fails to notify ABESPA of change (supervisor, schedule, work setting, etc).

Florida

Below is the Florida Board of Speech-Language Pathology and Audiology's rule related to direct/indirect supervision of assistants:

64B20-4.004 Supervision of Speech-Language Pathology Assistants and Audiology Assistants.

- (1) A licensee shall supervise and be responsible for all client services provided by an assistant.
- (2) Any licensee who employs a speech-language pathology assistant or audiology assistant shall:
 - (a) Ensure that the assistant is not responsible for making decisions regarding the diagnosis, management and future disposition of clients.
 - (b) Ensure that the assistant is assigned only to those duties for which the assistant has been specifically trained and is authorized to perform under Chapter 468, Part I, F.S. and Rule Chapter 64B20, F.A.C.
 - (c) Maintain contact with each client during the course of clinical management.
 - (d) Conduct performance reviews on the assistant on a quarterly basis during the first year of employment, on an annual basis thereafter, and on termination. Such reviews shall document direct observation of the role and of the task experience of the assistant. These reviews shall be signed by the supervisor and the assistant. These reviews shall be retained for four (4) years by the licensee and submitted to the Board upon request. Performance reviews shall be submitted to the Board office on Form SPA3-D, entitled "Evaluation Report for Speech-Language Pathology and Audiology Assistants," effective 9-8-94, which is hereby incorporated by reference. Copies of the

form are available from the Board office, located at Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way , Bin #C-06, Tallahassee , Florida 32399-3256 .

(e) Reassess and redesign programs when either the task or the environment changes significantly.

(f) Discontinue clinical services provided by the assistant should conditions arise in which any of the above cannot be adhered to.

(3) Assistants must be under the direct supervision of a licensee who has met all the requirements of Section 468.1185, F.S. Direct supervision requires the physical presence of the licensee in the same facility when the assistant is carrying out assigned responsibilities, in order for the licensee to be available for consultation and direction. The supervising licensee shall make provisions for emergency situations including the designation of another licensee who has agreed to be available to provide direct supervision to the assistant when the supervising licensee is not available. In the event that a supervising licensee is not on the premises, the assistant may only perform duties not involving direct client contact.

(4) The maximum number of assistants supervised by one licensee shall not exceed two (2) full-time or three (3) part-time assistants.

(5) In the event that multiple licensees are employed by a business entity, an assistant may be supervised by more than one licensee, but no more than three licensees, when the following conditions are met:

Iowa

SLPAs are not licensed by the Board but use of assistants is regulated. Following is the language in the Iowa Board of Speech Pathology & Audiology administrative rules as it relates to the use of assistants. Direct supervision and on-site supervision are not defined in the rules.

645—300.8(147) Use of assistants. A licensee shall, in the delivery of professional services, utilize assistants only to the extent provided in these rules.

300.8(1) Duties.

a. Speech pathology assistant I. A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.

b. Speech pathology assistant II. A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

c. Audiology assistant I. An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.

d. Audiology assistant II. An audiology assistant II is trained specifically for a single task for screening.

300.8(2) *Minimum requirements.*

a. A speech pathology assistant I or II or audiology assistant I must satisfy the following minimum requirements:

- (1) Reach the age of majority;
- (2) Complete a high school education, or its equivalent; and
- (3) Complete one of the following:
 1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks which the assistant will be performing; or
 2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

b. An audiology assistant II must satisfy the following requirements:

- (1) Reach the age of majority.
- (2) Complete a high school education, or its equivalent.
- (3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task which the assistant will be performing.

IAC 12/28/11 Professional Licensure[645] Ch 300, p.5

300.8(3) *Utilization.* Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

- a.* Documentation that the assistant meets minimum requirements;
- b.* A written plan of the activities and supervision that must be kept by the licensee supervising the assistant. This supervision must include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants must be supervised 10 percent of the time. At least half of that time must be direct on-site observation with the other portion provided as

time interpreting results;

c. A listing of the facilities where the assistant will be utilized; and

d. A statement, signed by the licensee and the assistant, that the rules pertaining to assistants have been read by both.

300.8(4) Maximum number of assistants. A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

300.8(5) Supervisor responsibilities. A licensee who utilizes an assistant shall have the following responsibilities:

a. To be legally responsible for the actions of the assistant in that assistant's performance of assigned duties with a client;

b. To make all professional decisions relating to the management of a client;

c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;

d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing periodic direct observation and supervision of the activities of the assistant; and

e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

Judy Manning

Board Executive | Bureau of Professional Licensure | Division of Administration & Professional Licensure | Iowa Department of Public Health | 321 E. 12th St. | Lucas State Office Bldg. | Des Moines, IA 50319-0075 | Office: 515-281-4413 | Fax: 515-281-3121 | Judith.Manning@idph.iowa.gov

Promoting and Protecting the Health of Iowans

(a) The assistant has been continuously employed for more than twelve (12) months;

(b) The assistant has been in that employment setting for more than 30 days;

(c) Each individual licensee takes responsibility for training, planning, and supervising the assistant or assistants for those clients for whom they have direct responsibility; and

(d) One primary supervisor shall be designated to be responsible for conducting performance reviews and notifying the Department of any changes in the supervisory plan or roster.

Specific Authority 468.1125(9) FS. Law Implemented 468.1125(3), (9) FS. History--New 3-14-91, Amended 11-3-92, 2-4-93, Formerly 21LL-4.004, 61F14-4.004, Amended 9-8-94, 8-17-95, 5-22-96, Formerly 59BB-4.004.

Kentucky

3. A person holding a license as a speech-language pathology assistant with three (3) or more years of full-time experience shall receive no less than one (1) hour per week of documented direct supervision and one (1) hour per week of indirect supervision, unless, in the professional judgment of the supervisor, the ability of the speech-language pathology assistant requires a higher level of supervision in order to avoid compromising the quality of services provided to students;

Maine

Direct supervision. "Direct supervision" of a speech-language pathology assistant or trainee hearing aid dealer and fitter means on-site observation and guidance by the supervising speech-language pathologist, audiologist or hearing aid dealer and fitter. "On site observation and guidance" requires the supervisor to be in the same facility as the supervisee, but does not require the supervisee to be in the physical presence of the supervisor at all times.

4. **IIHIS.** "IIHIS" means the International Institute for Hearing Instrument Studies.
5. **Indirect supervision.** "Indirect supervision" includes demonstration, assessment of written records of service, review and evaluation of audio or videotaped sessions, interactive television, and supervisory conferences that may be conducted by phone

New Jersey

I am referring you to our website at njconsumeraffairs.gov/aud, where you can go under the rules and regulations to N.J.A.C. 13:44C-3.5 Requirements for clinical internship. If we can be of further assistance, do not hesitate to contact this office at 973-504-6390.

>>> Sonia Claudino 6/24/2013 8:02 AM >>>

North Carolina

We define direct supervision as face to face. We have a 50 mile rule for the distance the SLP and the SLP-Assistant must maintain at all times. We recommend that they meet weekly since the SLP must sign the clinical protocols.

I would appreciate a copy of the results of your research.

Sandra Capps, Administrator
N.C. Board of Examiners SLP & AUD

Ohio

Dear Ms. Murphy,

Thank you for your e-mail. For Ohio, we do not have speech or audiology assistants. We license speech-language pathology aides and audiology aides. Also, the educational requirements and duties for aides are less than what you may find in other states that license assistants.

Supervision of an aide must be provided by a licensed speech-language pathologists or audiologists. The supervisor shall be able to provide "direct, comprehensive, documented, and immediate supervision to the aide," under board rule 4753-7-02(B). Direct supervision is defined as that given by a supervisor who is either present in the room in which the services are being given, or, who is immediately available to provide assistance to the aide within that particular contact with the patient/client served.

If you have additional questions about Ohio's regulations related to supervision of aides, please feel free to let me know. I would also like to receive the results of your survey once completed.

Thank you,

Gregg

Gregg B. Thornton, Esq. Executive Director

Ohio Board of Speech-Language Pathology & Audiology

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Oregon

Dear Carol,

Please take a look at our administrative rules on SLPAs; I think they will answer most of your questions.

http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_335/335_095.html

As for feedback on our requirements, there continues to be confusion about some of our definitions. We have an SLPA supervision audit that we do annually. We've done it for 5 years and still find errors and confusion, although compliance has much improved. We have developed a "smart form" to log clinical interaction hours and supervision—the form keeps a running tally of the % of supervision completed so that it should help people make sure they get the right amount of hours each month. It requires regular education through newsletters, etc. The last explanation I did was in our current newsletter:

<http://www.oregon.gov/bspa/pdfs/Summer.June2013.Newsletter.pdf>

If you have further questions after looking at these items, it would probably be best to talk by phone.

I don't know how big a project this is for you, but I will be pretty busy preparing for a Board meeting this week. Perhaps if you would like to chat we can set up a phone appt for sometime in the week of June 24th, or after July 8th.

Best regards,

Sandy

Sandy Leybold, MPH

Executive Director

Oregon Board of Examiners for Speech-Language Pathology & Audiology

800 NE Oregon St., Suite 407

BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

DIVISION 95

SPEECH-LANGUAGE PATHOLOGY ASSISTANTS

335-095-0010

Definitions

(1) **Approved Training Program:** A post secondary training program that has approval by the Oregon Board of Examiners for Speech-Language Pathology & Audiology to offer specific coursework and practica leading to licensure as a speech-language pathology assistant.

(2) **Assessment:** A qualitative and quantitative process, conducted by a licensed SLP, that measures the degree of communication impairment conducted by a licensed SLP including, but not limited to, screening, norm and criterion referenced testing, behavioral observations, and clinical interview.

(3) **Clinical Interaction:** Interaction where the speech-language pathology assistant (SLPA) or practicum student is actively involved by participating in or leading a therapy session.

(4) **Direct Supervision:** On-site, within sight and/or sound, or live videoconference observation and guidance by a speech-language pathologist while a speech-language pathology assistant performs a clinical interaction.

(5) **Indirect Supervision:** Those activities other than direct observation and guidance conducted by a speech-language pathologist that may include consultation, record review, lesson planning, and review and evaluation of audio-or videotaped sessions. Indirect supervision may be done in person or via telephone or electronic communication modes.

(6) **Speech-Language Pathology Assistant:** A person who provides speech-language pathology services under the direction and supervision of a speech-language pathologist licensed under ORS 681.250.

Stat. Auth.: ORS 681.205, 681.360, 681.370, 681.375, 681.420 & 681.460

Stats. Implemented: ORS 681.360, 681.370 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 3-2006, f. & cert. ef. 5-8-06; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09

335-095-0030

Certification of Speech-Language Pathology Assistants

Applicants must submit all of the following to be eligible for certification.

(1) Official transcripts showing 45 quarter hours or 30 semester hours of speech-language pathology technical course work; and

(2) Official transcripts showing 45 quarter hours or 30 semester hours of general education credit, and

(3) Written evidence of 100 clock contact hours of clinical interaction that results in an assessment that the applicant meets or exceeds all relevant skills outlined on the Board's Competency Checklist.

(a) Clinical interaction must be face to face interaction with clients and supervised 100% of the time. Activities may include speech and hearing screenings and individual or small group and classroom sessions over a recommended 8-12-week period.

(b) Tasks such as clerical tasks, passive observations, materials preparation and meetings with the supervisor may not be included in the 100 hours.

(c) Clinical interaction documentation must show the date, clinical activity, amount of time and the supervisor's initials and signature. While the practicum student is in training, the supervisor for the clinical interaction must be licensed by Board, or hold the ASHA Certificate of Clinical Competency.

(d) The supervising speech-language pathologist and the applicant must complete the Board's Competency Checklist upon completion of 100 hours. If there is more than one clinical interaction supervisor, each supervisor must complete and sign a Board Competency Checklist.

(e) In extenuating circumstances where the applicant is unable to obtain the signature of their clinical interaction supervisor, the Board may accept a Board Competency Checklist signed by another supervising speech-language pathologist who is licensed by the Board or holds the ASHA Certificate of Clinical Competency and is able to render a professional opinion of the applicant's level of competence.

(4) Applicants whose academic instruction was not conducted in English may be required to submit scores from the following standardized tests to demonstrate English language proficiency:

(a) The internet-based Test of English as a Foreign Language (TOEFL) with minimum scores of 100 overall, 26 in writing, and 26 in speaking; or

(b) The paper-based TOEFL and Test of Spoken English (TSE) with minimum scores of 600 overall; 5 on the essay; and 50 on the TSE; or

(c) The computer-based TOEFL and TSE with minimum scores of 250 overall; 5 on the essay; and 50 on the TSE.

(5) Applicants must demonstrate current professional competence as follows:

(a) Completion of clinical interaction as described in OAR 335-095-0030(3) within the 12 months prior to application; or

(b) Completion of 7.5 hours of professional development within the 12 months prior to application.

(c) Any hours completed in the current professional development period may also be counted towards meeting the professional development requirement for the next active license renewal.

Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 3-2006, f. & cert. ef. 5-8-06; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 2-2011, f. & cert. ef. 10-10-11; SPA 2-2012, f. & cert. ef. 12-14-12; SPA 1-2013, f. 4-1-13, cert. ef. 5-1-13

335-095-0040

Qualifications for Supervising Speech-Language Pathology Assistants

(1) All supervision of services provided by a speech-language pathology assistant must be performed by a speech-language pathologist who:

(a) holds an active, valid license issued by the Board of Examiners for Speech-Language Pathology and Audiology; or

(b) is exempt from licensure under ORS 681.230(2) and holds an active, valid basic or standard teaching license with an endorsement in speech impaired or an initial or continuing teaching license with an endorsement in communication disorders issued by the Teacher Standards and Practices Commission.

(2) The supervising speech-language pathologist must have the following professional work experience:

(a) at least two years of professional speech-language pathology work experience following completion of their graduate degree in speech-language pathology or communications disorders.. The clinical post-graduate fellowship year may be counted as one year of professional experience.

(b) if exempt from licensure under ORS 681.230(2), and initially licensed by the Teacher Standards and Practices Commission prior to 1999, a minimum of five years of professional work experience in speech-language pathology within the ten years preceding the provision of supervision. The supervising speech-language pathologist must have held an active basic or standard teaching license with an endorsement in standard speech impaired or an initial or continuing teaching license with an endorsement in communication disorders issued by the Teacher Standards and Practices Commission during qualifying work experience. Work experience while holding a restricted transitional license, conditional assignment permit, or other provisional license issued by the Teacher Standards and Practices Commission is excluded from qualifying work experience.

(3) The supervising speech-language pathologist must agree to supervise according to Board requirements, as outlined in OAR 335-095-0050.

Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 2-2011, f. & cert. ef. 10-10-11; SPA 2-2012, f. & cert. ef. 12-14-12

335-095-0050

Requirements for Supervising Licensed Speech-Language Pathology Assistants

(1) The amount and type of supervision required will be based on the skills and experience of the speech-language pathology assistant.

(a) For the first 90 calendar days of licensed employment, with a given employer, a minimum of 30% of all the time an assistant is providing clinical interaction must be supervised. A minimum of 20% of hours spent in clinical interaction must be directly supervised.

(b) Subsequent to the first 90 calendar days of licensed employment with a given employer, a minimum of 20% of all the time an assistant is providing clinical interaction must be supervised. A minimum of 10% of hours spent in clinical interaction must be directly supervised.

(c) The supervising speech-language pathologist must be able to be reached throughout the work day. A temporary supervisor may be designated as necessary.

(d) If the supervising speech-language pathologist is on extended leave, an interim supervising speech-language pathologist who meets the requirements stated in 335-095-0040 must be assigned.

(e) The caseload of the supervising speech-language pathologist must allow for administration, including speech-language pathology assistant supervision, evaluation of clients and meeting times. Speech-language pathology assistants may not have a caseload; therefore, all clients are considered part of the supervising speech-language pathologist's caseload. The supervising speech-language pathologist is responsible to make all diagnostic and treatment related decisions for all clients on the caseload, and to supervise any speech-language pathology assistants assigned to assist with that caseload.

(f) Supervision requirements must be met for all clients on the caseload who receive treatment from the speech-language pathology assistant.

(2) The supervising speech-language pathologist may not supervise more than the equivalent of two full-time speech-language pathology assistants.

(3) The supervising speech-language pathologist must co-sign each page of records.

(4) Supervision of speech-language pathology assistants must be documented.

(a) Documentation must include the following elements: date, activity, clinical interaction hours, and direct or indirect supervision hours. Clinical logs documenting supervision must be completed and supervision hours calculated for each calendar month for each caseload. Each entry should be initialed by the supervising speech-language pathologist. Each page of documentation should include the supervising speech-language pathologist's signature and license numbers issued by this Board and the Teacher Standards and Practices Commission if applicable. Supervision documentation must be retained by the speech-language pathology assistant for four (4) years.

(b) Documentation must be available for audit requests from the Board.

(5) In remote geographic areas of the state or in other situations with severe shortages of licensed personnel, where Direct Supervision requirements cannot be met by an on-site Speech-Language Pathologist, educational facilities may apply for a one year exemption from certain requirements for supervision of certified Speech-Language Pathology Assistants.

(a) This exemption allows educational facilities to use the review and evaluation of audio- or video-taped records or live audio- or video-conferencing of clinical interactions, or a combination thereof, to provide a portion of the required Direct Supervision hours, up to a maximum of 75% of the required Direct Supervision hours.

(b) During the exemption period, a licensed Speech-Language Pathologist may supervise up to four full-time equivalent certified Speech-Language Pathology Assistants.

(c) This exemption will expire on July 31st of the year in which it is granted. An exemption shall only be granted for a maximum of two years out of each consecutive five year period.

Stat. Auth.: ORS 681.360, 681.370, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360, 681.370 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 4-2008(Temp), f. & cert. ef. 8-13-08 thru 2-8-09; Administrative correction 2-18-09; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 2-2011, f. & cert. ef. 10-10-11; SPA 2-2012, f. & cert. ef. 12-14-12

335-095-0060

Scope of Duties for the Speech-Language Pathology Assistant

(1) A speech-language pathology assistant may conduct the following tasks under supervision of the licensed Speech-Language Pathologist:

(a) Conduct speech and language screenings without interpretation, utilizing screening protocols specified by the supervising speech-language pathologist.

(b) Provide direct treatment assistance, excluding dysphagia (as opposed to feeding for nutritional purposes), to patients/clients identified by the supervising SLP by following written treatment plans or protocols developed by the supervising SLP.

(c) Document patient/client progress, without interpretation of findings, toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist.

(d) Assist the speech-language pathologist in collecting and tallying of data for assessment purposes, without interpretation.

(e) Act as second-language interpreters during assessments.

(f) Assist the speech-language pathologist with informal documentation during an intervention session (collecting and tallying data as directed by the speech-language pathologist), prepare materials, and assist with other clerical duties as specified by the supervising speech-language pathologist.

(g) Schedule activities and prepare charts, records, graphs, or other displays of data.

(h) Perform checks and maintenance of equipment.

(i) Participate with the speech-language pathologist in research projects, in-service training, and public relations programs.

(j) Initial each clinical entry and sign each page of records.

(2) The speech-language pathology assistant may not perform the following tasks:

(a) May not conduct swallowing screening, assessment, and intervention protocols, including modified barium swallow studies.

(b) May not administer standardized or non-standardized diagnostic tests, formal or informal evaluations, or interpret test results.

(c) May not participate in parent conferences, case conferences, Individualized Education Plan (IEP) meetings, Individualized Family Services Plan (IFSP) meetings or any interdisciplinary team without the presence of the supervising speech-language pathologist.

(d) May not write, develop, or modify a patient/client's treatment plan in any way.

(e) May not provide intervention for patients/clients without following the treatment plan prepared by the supervising speech-language pathologist.

(f) May not sign any formal documents (e.g. treatment plans, reimbursement forms, individualized education plans (IEPs), individualized family services plans (IFSPs), determination of eligibility statements or reports.)

(g) May not select patients/clients for services.

(h) May not discharge patients/clients from services.

(i) May not disclose clinical or confidential information either orally or in writing to anyone not designated by the speech-language pathologist.

(j) May not make referral for additional service.

(k) May not communicate with the patient/client, family, or others regarding any aspect of the patient/client status or service without the specific consent of the supervising speech-language pathologist.

(l) May not represent him/herself as a speech-language pathologist.

(m) May not write a formal screening, diagnostic, or discharge report.

Stat. Auth.: ORS 681.360, 681.370, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.370 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 2-2009, f. & cert. ef. 11-16-09

335-095-0065

Scope of Duties for the Educational Assistant

(1) A speech-language pathologist may assign the following tasks to an educational assistant:

(a) Non-instructional activities such as materials preparation.

(b) Clerical duties such as scheduling of appointments, maintenance of equipment and the set-up of materials for diagnostic and intervention sessions.

(2) A speech-language pathologist **may not assign the following tasks** to an educational assistant:

(a) May not assign the task of speech and language screenings.

(b) May not assign provision of direct treatment assistance. This does not mean to imply that carryover and practice activities are restricted to speech-language pathologists and speech-language pathology assistants.

(c) May not assign documentation of patient/client progress.

(d) May not assign the task of assisting the speech-language pathologist in collecting and tallying of data for assessment purposes.

(e) May not assign the task of independently collecting formal or informal documentation toward speech/language intervention goals.

(f) May not assign the task of signing and recording initial treatment notes.

Stat. Auth.: ORS 681.360, 681.370, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360, 681.370 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 3-2008, f. & cert. ef. 4-10-08

Virginia

www.bspa.state.or.usThe Virginia board does not license or certify SLPA. The Regulations state the following about the supervision of unlicensed assistants:

18VAC30-20-240. Supervisory responsibilities; supervision of unlicensed assistants.

A. A licensed audiologist and speech-language pathologist shall provide documented supervision to unlicensed assistants, shall be held fully responsible for their performance and activities, and shall ensure that they perform only those activities which do not constitute the practice of audiology or speech-language pathology and which are commensurate with their level of training.

B. The identity of the unlicensed assistant shall be disclosed to the client prior to treatment and shall be made a part of the client's file.

Sincerely,

Leslie L. Knachel, M.P.H.

Executive Director

Board of Audiology & Speech-Language Pathology

Board of Optometry

Board of Veterinary Medicine

Department of Health Professions

9960 Mayland Drive, Suite 300

Henrico, Virginia 23233-1463

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TITLE 16 CALIFORNIA CODE OF REGULATIONS SPEECH-LANGUAGE PATHOLOGY ASSISTANT

Article 3. Qualifications for Licensure-Education and Clinical Experience

1399.152.2. Supervised Clinical Experience

(a) Supervised clinical experience within the meaning of Section 2532.2, subdivision (c) of the code shall be in the area for which licensure is sought. Speech-language pathology clinical experience shall be under the supervision of a licensed speech-language pathologist or a speech-language pathologist having qualifications deemed equivalent by the board, and who possesses at least two years of full-time experience providing services as a fully licensed speech-language pathologist, or if in a setting or state that does not require licensure, holds legal authorization to provide independent services. Audiology clinical experience shall be under the supervision of a licensed audiologist or an audiologist having qualifications deemed equivalent by the board, and who possesses at least two years of full-time experience providing services as a fully licensed audiologist or if in a setting or state that does not require licensure, holds legal authorization to provide independent services. "Qualifications deemed equivalent by the board" includes a supervisor who holds the legal authorization to practice in the field for which licensure is sought in the state where the experience is being obtained, if the supervised clinical experience is obtained in a setting which is exempt from the licensure requirements of the Act or out of state.

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

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

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

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

Article 4. Qualifications for Licensure-Required Professional Experience

1399.153. Definitions.

As used in this article, the term:

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

(b) "Required professional experience supervisor" or "RPE supervisor" means a person who is licensed as a speech-language pathologist or audiologist in the field for which licensure is sought, or has qualifications deemed equivalent by the board, and who possesses at least two years of full-time experience providing services as a fully licensed practitioner, or if in a setting or state that does not require licensure, holds legal authorization to provide independent services in the field for which licensure is sought. "Qualifications deemed equivalent by the board" include a supervisor who holds legal authorization to practice in the state where the experience is being obtained in the field for which licensure is sought if the required professional experience is obtained in a setting which is exempt from the licensure requirements of the Act or out of state.

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

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

Article 12. Speech-Language Pathology Assistants

1399.170. Definitions.

As used in this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1399.170.6. Requirements of the Sponsoring Institution.

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

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

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

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

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

1399.170.10. Required Curriculum.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

hours of field work experience or clinical experience equivalent to that required in Section 1399.170.10(c)(2)(B) in a bachelor's degree program as recognized in this subsection.

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

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

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

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

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

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

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

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

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

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

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

~~(=) The supervisor shall provide a minimum of _____ hours of supervision per month.~~

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

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

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

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

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

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

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

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

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

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

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

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



Humphreys, Breanne@DCA

From: Carol <carol047@sbcglobal.net>
Sent: Friday, August 09, 2013 1:26 PM
To: DelMugnaio, Annemarie@DCA
Subject: credential waivers

Hi,
I have reviewed credential waivers from June, 2008 through March, 2013. I believe I found all the CTC reports for that period but I am not positive.

Out of 739 granted waivers for the above period, 222 were for Speech-Language Pathology with 5 denied. This was 30%, a hefty number.

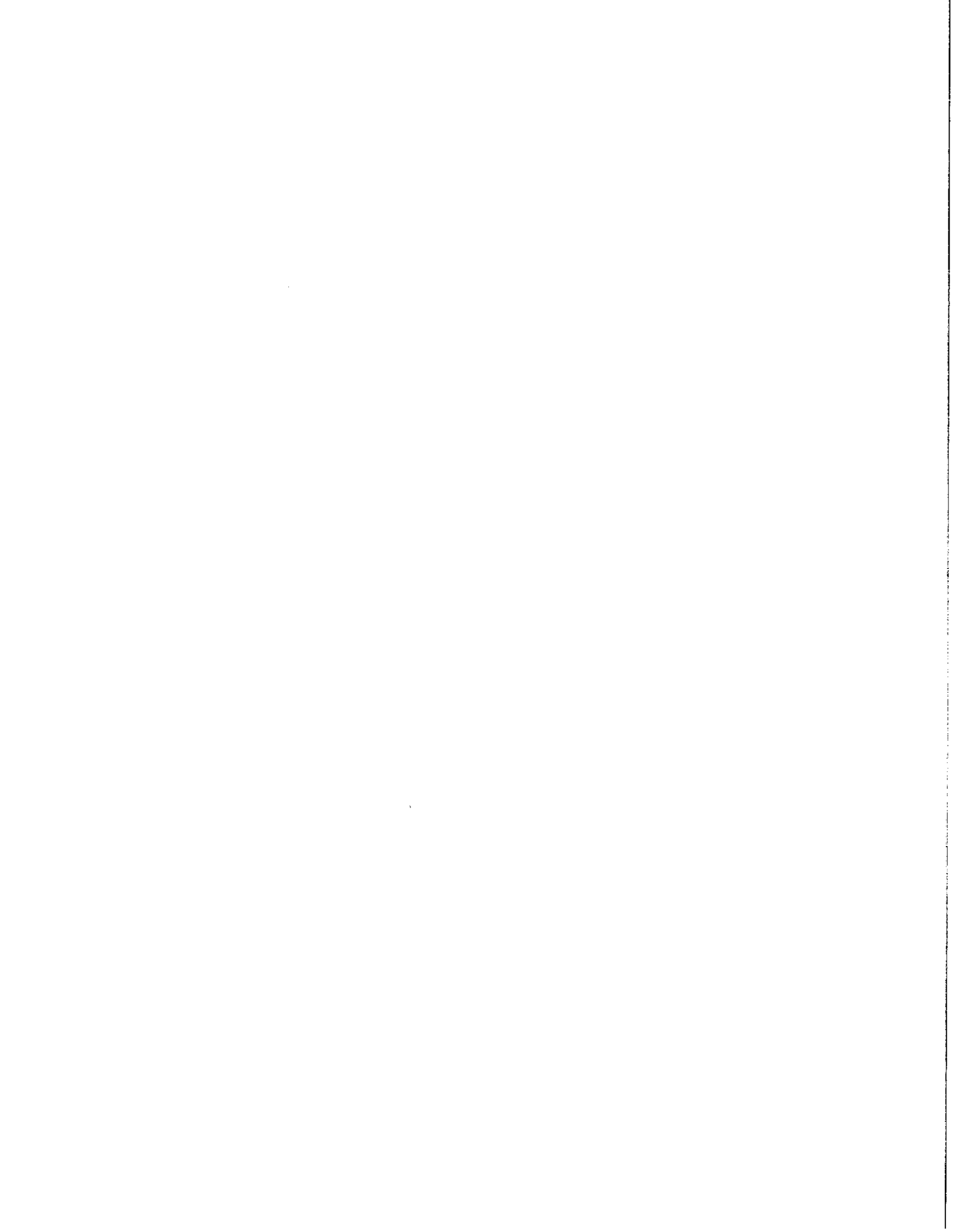
Most were for southern CA, some were for mid and northern CA. I am troubled by the granting of SLP waivers to Supplemental Educational Service Providers that typically only do after school tutoring.

I tried to attach the latest report from CTC provided to the legislature, but could not so below is the link. Starting with page 47 is data you would be interested in viewing.

<http://www.ctc.ca.gov/reports/TS-2011-2012-AnnualRpt.pdf>

Please let me know that you received this email as I want to make sure you get it. This was quite a bit of research.

Carol



Humphreys, Breanne@DCA

From: DelMugnaio, Annemarie@DCA
Sent: Tuesday, July 30, 2013 4:16 PM
To: 'William Barnaby'
Cc: 'Patti Solomon-Rice'
Subject: Meeting with CCTC/ Department of Ed

Hello Bill,

The Board is interested in meeting with the CCTC and representatives from the Department of Education to discuss the long-standing issue of speech and language personnel operating under emergency permits or waivers in the schools. It has been the Board's contention that personnel operating under these "provisional" or temporary credentials do not possess the necessary qualifications to provide speech and language services to children.

It was our understanding that the CCTC was no longer issuing emergency permits, however, we recently discovered that is not the case. At this point, we need to gather the pertinent facts from CCTC and DOE regarding the criteria for issuing the waivers/permits, in terms of how many are being issued, and the plan for ensuring these provisional or temporary credentials are not becoming a permanent solution to personnel shortages.

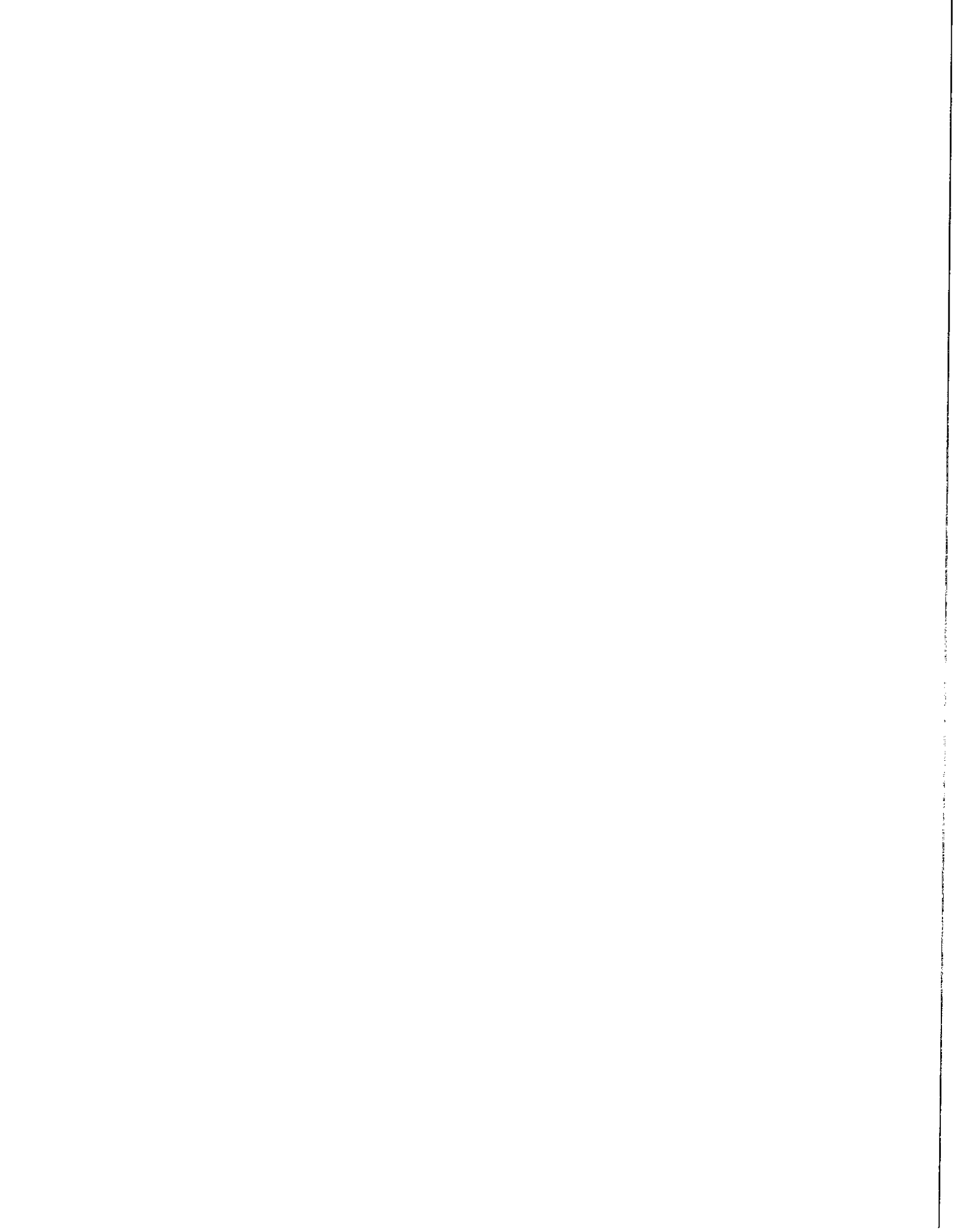
I understand that CSHA may also share the Board's concerns and as such, wondered if you would be interested in joining us for an informational meeting. The last contact I have at CCTC is Terri Fesperman, Division of Professional Practices, although, I'm not certain Terri is still the appropriate person on such matters. Have you had any dealings with CCTC recently regarding speech-language pathology issues?

Please let me know if you believe CSHA may be interested in participating in a meeting.

Best Regards,

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

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AUDIOLOGY PRACTICE COMMITTEE MEETING MINUTES

June 12, 2013

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

Committee Members Present

Alison Grimes, Chair, Audiologist
Marcia Raggio, Audiologist
Amnon Shalev, Hearing Aid Dispenser
Jaime Lee, Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer
Clair Yazigi, Legal Counsel
Breanne Humphreys, Program Manager

Board Members Present

Deane Manning, Hearing Aid Dispenser
Carol Murphy, Speech-Language Pathologist
Patti Solomon Rice, Speech-Language Pathologist

Committee Members Absent

Rodney Diaz, Otolaryngologist

Guests Present

Cindy Beyer, HearUSA
Jami Tanihana, HearUSA
Tricia Hunter, HHP CA
Linda Pippert, Alpha Vista Services, CSHA
Meghan Giffin, Alpha Vista Services
Jean Jackson, EBS Healthcare
Dennis Van Vleit, Audiologist

I. Call to Order

Chairperson Grimes called the meeting to order at 4:18 p.m.

II. Introductions

Those present introduced themselves.

Chairperson Grimes appointed Mr. Shalev to the Audiology Practice Committee.

III. Discussion Regarding Professionals Providing Treatment for Tinnitus & the Federal Provisions for Regulating Tinnitus Devices

Ms. Del Mugnaio referenced a letter sent by Randall Bartlett requesting the Board to examine whether tinnitus devices are covered under the Song-Beverly Consumer Warranty Act (SBCWA).

Ms. Yazigi referenced an email exchange between herself and Ms. Del Mugnaio and requested the Committee to review the email to consider whether the Committee would like to waive the attorney-client privilege of the email and make the communication public.

M/S/C: Grimes/Shalev

The Committee waived the attorney-client privilege of the email communication between Ms. Yazigi and Ms. Del Mugnaio regarding the regulation or lack thereof, of tinnitus devices.

Chairperson Grimes summarized the content of the email as follows:

- There is no regulatory oversight of tinnitus device dispensers.
- Tinnitus devices fall within the protections of the SBCWA.
- One would not need to be licensed as a hearing aid dispenser or a dispensing audiologist in order to dispense a tinnitus only device.
- Consumers must be afforded the 30-day right of return under SBCWA.

Mr. Shalev commented that a non-licensed person is not authorized to take an ear impression.

Members of the Committee disagreed with that assertion and stated that non-licensed persons may take an ear impression for making devices such as custom ear plugs, etc.

Ms. Lee inquired whether tinnitus is deemed a disease or disability as the SBCWA would apply to assistive devices intended to treat a disease or assist with a disability.

Ms. Yazigi stated that Civil Code Section 1791(p) addresses “assistive devices” as any instrument that assists in the mitigation or treatment of a disability, disease or an injury.

Ms. Yazigi stated that the inquiring licensee seems to be concerned about the 30-day return period of tinnitus devices and professes that a consumer must wear a tinnitus device for a much longer period of time to determine whether the device is providing a benefit in the treatment of tinnitus.

Ms. Del Mugnaio explained that the Board does not regulate or enforce the SBCWA beyond that which applies to hearing aids.

Ms. Yazigi stated that the Board has the option of seeking to expand its authority to include regulation of tinnitus devices. She commented there are several layers to the discussion such as addressing hearing aid dispensers who dispense a tinnitus device that is not a hearing aid as only audiologists and physicians may diagnose and provide tinnitus therapy.

Ms. Yazigi inquired whether a tinnitus device would be covered under BPC 2538.10(d) as a device to aid with, or compensate for, impaired hearing.

The Committee did not reach agreement on whether a tinnitus device aids with impaired hearing.

Chairperson Grimes recommended that a letter be sent to the licensee explaining the Committee's discussion and outlining that: licensed audiologists may provide counseling and treatment of tinnitus; a device that is a hearing aid with a tinnitus component is regulated by the Board and is subject to the provisions of SBCWA; and, a device that is not a hearing aid but a tinnitus masker only, is not regulated by the Board but may be subject to the warranty provisions of the SBCWA.

M/S/C: Grimes/Raggio

The Committee voted to recommend to the full Board that staff prepare a letter to the inquiring licensee explaining the Board's position that licensed audiologists may provide counseling and treatment of tinnitus; a device that is a hearing aid with a tinnitus component is regulated by the Board and is subject to the provisions of SBCWA; and, a device that is not a hearing aid but a tinnitus masker only, is not regulated by the Board but may be subject to the warranty provisions of the SBCWA.

IV. Review of Legal Opinion Regarding Audiologists Participation in the AARP/HearUSA Hearing Aid Program

Chairperson Grimes requested that Ms. Del Mugnaio provide background to the discussion item.

Ms. Del Mugnaio reported that back on January 19, 2009, a legal memorandum was issued to the Board by the Department regarding a referral program sponsored by AARP/Hear USA where licensed audiologists paid an application fee to be paneled providers for AARP/Hear USA members and be included on a referral list. Ms. Del Mugnaio explained that the paneled providers must agree to offer discounted rates on hearing aid devices and services. She stated that the legal memorandum was issued based on a request by the California Academy of Audiology (CAA) to examine the program and determine whether an audiologist's participation in the referral program was lawful. Ms. Del Mugnaio reported that the 2009 legal memorandum concluded that it was unlawful for a licensed audiologist to participate in the AARP/Hear USA program as the program, at that time, violated Business and Professions Code Section 650, and was deemed unlawful based on the audiologist payment to be included on a referral list.

Ms. Del Mugnaio stated that the Department received a request from Andrew Kugler, of Mayer Brown LLP representing AARP/HearUSA on December 10, 2012, requesting a review of an amended AARP/HearUSA program, which among other changes, removed the participation fee so that any licensee would be free to participate as long as they honored the discounted rates for hearing aids and services, and that the program does not refer members to any specific licensee or network of licensees.

Ms. Del Mugnaio stated that Ms. Yazigi prepared a response to Mr. Kugler on March 19, 2013 and concluded that based on the facts set forth in the correspondence of December 10, 2012, HearUSA's updated program proposal does not appear to violate BPC 650 as being an unlaw fee for referral.

Ms. Cindy Beyer of HearUSA addressed the Board and explained the changes to the HearUSA/AARP program.

Ms. Del Mugnaio stated that the Board does not endorse or approve any independent business plan and that the reason a letter was issued regarding the HearUSA/AARP program was to address a legal inquiry made by CAA to the Department in 2009.

Ms. Yazigi stated that the Board has options in terms of how it adopts her letter and legal conclusion:

- The Board may adopt Ms. Yazigi's legal conclusion.
- The Board may not adopt Ms. Yazigi's legal conclusion.
- The Board has the option to not act or make any formal Board decision.

The Committee requested Ms. Yazigi to explain her analysis of the HearUSA/AARP program.

Ms. Yazigi summarized her legal analysis as follows:

- HearUSA is a network administrator of the AARP program and offers discounted services and products, such as hearing aid devices and services, to its members, the senior population.
- The 2009 plan charged audiologists and hearing aid dispensers an annual fee and a credential fee to be included on a national directory of providers who would offer such discounted services.
- Since the providers paid a third-party, HearUSA, to be included on a referral list, the plan violated BPC 650 as an unlawful fee for referral.
- Based on the new plan as described in the 2012 letter, HearUSA has removed the fee requirement and opened the national directory to any licensee in good-standing.
- The benefit of discounted rate on hearing aid devices and services would be passed directly to the members and no monies would be retained by HearUSA/AARP.
- The legal analysis determines whether the plan has a direct benefit to HearUSA/AARP in terms of attracting members to its organization based on the discounts offered.
- A review of case law provided an analysis of health care plans where discounted services were offered to select members.

- The legal conclusion was that the discounted hearing aid devices and services offered by HearUSA to AARP members does not appear to unilaterally attract members to the plan, as AARP members are offered a multitude of discounts and services.

Ms. Raggio pointed out that HearUSA has been operating in California for years, however, the plans were not the HearUSA/AARP plan that is being discussed at the meeting.

Ms. Del Mugnaio stated that the Committee should consider recommending to the Board one of the three options as described by Ms. Yazigi, whether to adopt the conclusion as prepared by Ms. Yazigi, not adopt the conclusion, or do take no action on the matter.

Ms. Lee stated that the Board needs to be aware that if it chooses to adopt the conclusion of Ms. Yazigi, it needs to be on record that the conclusion reached is based specifically on the set of facts as outlined by HearUSA/AARP in the December 2012 letter.

Ms. Yazigi stated that her letter is a public document by virtue of it being discussed by the Committee during the meeting.

The Committee discussed the options.

M/S/C: Lee/Grimes
Abstention: Shalev

The Committee recommended to the full Board that it adopt Ms. Yazigi's legal conclusion regarding the HearUSA/AARP program and directed staff to field questions from licensees regarding the legal merit of participating in the HearUSA/AARP program.

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

Chairperson Grimes agreed to work with Ms. Raggio and gather input separately from Ms. Bingea to develop supervision standards and practice limitations for audiology aides.

Ms. Del Mugnaio mentioned that the dispensing of hearing aids by audiology aides who are not licensed hearing aid dispensers should be addressed in the practice limitations.

Ms. Del Mugnaio stated that she has addressed the practice restriction regarding aides dispensing hearing aids in the proposed regulatory text.

Chairperson Grimes adjourned the meeting at 6:00 p.m.

AUDIOLOGY AIDE REGULATORY PROPOSAL

Introduction & Rationale

This position statement defines the function of audiology aides. It provides guidance on the education and training, duties and responsibilities, patient care and safety, and the requisite supervision of audiology aides. The document is intended for use by audiologists, employers of audiologists and audiology aides, consumers of audiometric services, and persons seeking to become aides. It is intended to be used as a guide for issues involving audiology aides, and to serve as a reference for issues of service delivery, supervision, third-party reimbursement, legislation, consumer education, regulatory action, state licensure and registration, and inter-professional relations. The background and rationale for these guidelines have been well-documented (see bibliography). The pertinent California laws and regulations, already in place, can be found in Appendix A.

The profession of Audiology is poised to experience an expansion in the need for its services due to the rapidly growing aging population, as well as audiology needs based on newborn hearing screening results (Bureau of Labor Statistics, 2012; Projections Central, State Occupational Projections, 2013; Freeman, B, 2009; California Newborn Hearing Screening Program, 2009). The appropriate use of audiology aides, to help meet these growing needs, is an important expansion of this para-professional pool.

It is the purpose of this document to define the role of the audiology aide in supporting audiologists in the delivery of audiology services. It is incumbent upon the supervising audiologist and audiology aide to be knowledgeable of their respective, applicable state licensure laws.

Definition

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

Position Statement

It is the position of this Board that audiology aides are important to the future of this profession in that they can provide valuable support to audiologists in the delivery of quality services to patients. Further, the duties and responsibilities of audiology aides must be delegated only by supervising audiologists who will bear the legal and ethical responsibilities for all assigned activities that the audiology aide provides. The needs of the consumer of audiology services and protection of the patient must always be paramount. Licensed audiologists, by virtue of their education and training, are the appropriate and only qualified professionals to supervise and train audiology aides.

Duties & Responsibilities

A California licensed audiologist shall provide appropriate supervision and assume full responsibility for services delegated to, and rendered by, an audiology aide. Any service requiring professional competence shall not be delegated to unqualified persons.

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

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

Education & Training; Patient Care & Safety

The minimal educational requirements for an audiology aide are a high school diploma, or equivalent, and competency-based training. In addition, audiologists are to consult their state's licensure or registration laws as they pertain to audiology aides. It is recommended that the supervising audiologist consider evaluating the types of training and instructional sequences found in formal training programs to determine efficacy and compliance of training strategies for aides in terms of onsite participation by audiology aides.

In addition, the audiologist should examine whether the training system teaches tasks that are disallowed by their respective state licensing body, are not appropriate in the practice setting, or are not tasks that the audiologist expects to delegate. Regardless of the training method, the audiologist remains responsible for ensuring that the aide is competent in the assigned tasks. The audiologist who employs and/or supervises audiology aides shall maintain legal and ethical responsibility for all services provided by the aides.

Training provided by a supervising audiologist should include specific instruction and demonstration of each task the aide is to perform along with continuous, direct

observation by the audiologist until the aide demonstrates competency with the task. The aide will not perform any task with less than direct supervision until the audiologist determines the aide is fully competent.

The audiology aide shall engage only in those duties and responsibilities that are planned, delegated, and supervised by the audiologist. The audiology aide should be clearly identified as an aide by means of a nametag or similar identification. Disclosure (oral or written) should be provided to patients, as appropriate. In addition, hospital competency demonstration and other local requirements (e.g., compliance, HIPAA) must be met for each individual practice setting.

Supervision

While an aide may support more than one audiologist within a practice, one state-licensed audiologist must be designated as the person ultimately responsible for the aide and accept the primary role in the clinical, technical and administrative actions related to that specific audiology aide. Tasks assigned must not extend beyond the defined range of knowledge and skills of the aide.

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

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

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ADDENDUM A

Acceptable Tasks for Audiology Aides

- Manage hearing aid fitting set-up (i.e., Noah patient data input, hearing aid connection and computer detection; accessory display)
- Instruct patients in use, care, and maintenance of hearing aids and hearing aid orientation
- Demonstrate and instruct patients in use of computer-based auditory training and product counseling materials.
- Assist as a pediatric or special population test aide
- Screen hearing without interpretation beyond stating “pass” or “not pass”
- Provide screening otoscopy
- Order supplies and instruments
- Maintain exam rooms
- Troubleshoot and service hearing aids (e.g., clean aids; change tubing, earwires, and receivers; perform listening checks and 2cc coupler measures)
- Schedule patient appointments
- Prepare patients for automatic hearing testing using an automated audiometer
- Manage patient charts
- Perform miscellaneous clerical tasks
- Chart progress notes that are reviewed and co-signed by supervising audiologist
- Provide automated ABR, OAE, and tympanogram screening (without interpretation)
- Utilize appropriate infection control measures in patient and hearing interactions
- Assist in biological calibration of diagnostic equipment
- Demonstrate and sell Assistive Listening Devices
- Provide loaner hearing aids (without new programming)
- Translation/Interpreting
- Fit-test hearing protection devices
- Perform electro-acoustic analyses of hearing instruments to determine whether the instruments meet specifications

Prohibited Tasks for Audiology Aides

- Perform diagnostic audiometric evaluations
- Perform diagnostic otoscopy
- Take earmold impressions without general supervision
- Perform diagnostic tympanometry, ear canal volume measurements, or acoustic reflex thresholds
- Write or modify patient reports
- Transmit or disclose oral or written clinical information without approval of supervising audiologist.
- Perform probe-microphone real-ear measures
- Program hearing aids, other than First Fit and prior user settings
- Counsel patients/parents regarding test results, interpretation, hearing loss, and implications
- Perform any task with which the audiologist or audiology aide is not comfortable
- Perform ENG, VNG, or VAT procedures

ADDENDUM B: SUPERVISION CLASSIFICATIONS

AUDIOLOGY AIDE SUPERVISION TABLE			
DIRECT SUPERVISION- (IN PLAIN VIEW)	GENERAL SUPERVISION (IN FACILITY- AVAILABLE FOR IMMEDIATE CONSULTATION)	INDIRECT SUPERVISION (NOT IN FACILITY- AVAILABLE BY TELEPHONE OR ELECTRONIC MEANS)	OTHER- NOT A AUDIOLOGY FUNCTION (GENERAL ADMINISTRATIVE DUTY, DOES NOT REQUIRE A HEALTH CARE LICENSE TO PERFORM.)
Test assist for pediatric evaluations	Hearing Screening	Hearing Aid Troubleshooting	Front-Office Work
Assist with tympanometry/OAEs	Hearing Aid Orientation (how to insert/remove, how to change battery, how to manipulate switches, how to clean)	Demonstrate and instruct patients in use of computer-based auditory training & product materials	Selling Ancillary Services (TV Ears, Batteries, Cleaning Tools etc.)
Assist with ABR	Management of hearing aid fitting set-up (i.e. Noah patient data input, hearing aid connection and computer detection; accessory display)	Clean hearing devices, change tubing, perform listening checks and 2cc coupler measures for patients of the practice	Equipment Maintenance; and software upgrades
Provide automated ABR, OAE, and tympanogram screening) without interpretation)	Hook up patients to have their hearing automatically tested using an automated audiometer; Assist in Biological Calibration	Electroacoustic Analysis of Hearing Aids	Supply and Instrument Ordering
	Earmold Modification	Utilize appropriate infection control measures	Maintain Exam Rooms; infection control
	Demonstrating and selling Assistive Listening Devices (e.g., Pocket Talker)	Hearing Aid Repair	NOAH Software Patient Data Input and Programming Set-up
	Providing "loaner" Hearing Aids (without patient-specific programming unless approved prior programming)		Scheduling; Clerical Tasks
	Otoscopy for purposes of looking for cerumen occlusion		Chart Management
	Fit-test hearing protection devices		Translation/Interpreting

ADDENDUM C

"General clerical or administrative duties performed by office personnel where said personnel is not involved in direct client care does not constitute the practice of audiology and, therefore, is not governed by audiology aide registration requirements."

APPENDIX A

BUSINESS AND PROFESSIONS CODE □ SPEECH-LANGUAGE PATHOLOGISTS, AUDIOLOGISTS & HEARING AID DISPENSERS

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

2530.6. Aides

Speech-language pathologists and audiologists supervising speech-language pathology or audiology aides shall register with the board the name of each aide working under their supervision. The number of aides who may be supervised by a licensee shall be determined by the board. The supervising audiologist or speech-language pathologist shall be responsible for the extent, kind, and quality of services performed by the aide, consistent with the board's designated standards and requirements.

(Amended by Stats. 1997, Ch. 758)

TITLE 16 CALIFORNIA CODE OF REGULATIONS

Article 5. Speech-Language Pathology or Audiology Aides

1399.154. Definitions.

As used in this article, the term:

(a) "Speech-language pathology aide" means a person who

(1) assists or facilitates while a speech-language pathologist is evaluating the speech and/or language of individuals or is treating individuals with a speech-language and/or language disorder and

(2) is registered by the supervisor with the board and the registration is approved by the board.

(b) "Audiology aide" means a person who

(1) assists or facilitates while an audiologist is evaluating the hearing of individuals and/or is treating individuals with hearing disorders, and

(2) is registered by the supervisor with the board and the registration is approved by the board.

(c) "Supervisor" means a licensed speech-language pathologist who supervises a speech-language pathology aide or a licensed audiologist who supervises an audiology aide.

(d) "Industrial audiology aide" means an audiology aide who conducts pure tone air conduction threshold audiograms for the purpose of industrial hearing testing in addition to other acts and services as provided in these regulations.

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

1399.154.1. Registration of Aides.

Before allowing an aide to assist in the practice of speech-language pathology or audiology under his or her supervision, a supervisor shall register each aide with the board on a form provided by the board and pay the registration fee required in Section 1399.157. Regardless of their title or job classification, any support person who functions as a speech-language pathology or audiology aide and facilitates or assists a supervisor in evaluations or treatment shall be registered with the board. In the application for registration, the supervisor shall provide to the board his or her proposed plan for supervising and training the speech-language pathology or audiology aide. The proposed plan for training shall be in accordance with Section 1399.154.4 and shall include the supervisor's training methods, the necessary minimum competency level of the aide, the manner in which the aide's competency will be assessed, the persons responsible for training, a summary of any past education, training and experience the aide may have already undertaken, and the length of the training program and assessment of the aide's competency level. The board shall review the application for compliance with the requirements of this article and notify the supervisor of its disposition of the application for registration and whether further information is required in order to complete its review.

NOTE: Authority cited: Section 2531.25, Business and Professions Code.
Reference: Sections 2530.2, 2530.6 and 2532.4, Business and Professions Code.

1399.154.2. Responsibilities of Aide's Supervisor.

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

- (a) Have legal responsibility for the health, safety and welfare of the patients.
- (b) Have legal responsibility for the acts and services provided by the speech-language pathology or audiology aide, including compliance with the provisions of the Act and these regulations.
- (c) Be physically present while the speech-language pathology or audiology aide is assisting with patients, unless an alternative plan of supervision has been approved by the board. A supervisor of industrial audiology aides shall include a proposed plan for alternative supervision with the application form. An industrial audiology aide may only be authorized to conduct puretone air conduction threshold audiograms when performing outside the physical presence of a supervisor. The supervisor shall review the patient histories and the audiograms and make any necessary referrals for evaluation and treatment.
- (d) Evaluate, treat, manage and determine the future dispositions of patients.
- (e) Appropriately train the speech-language pathology or audiology aide to

perform duties to effectively assist in evaluation and/or treatment. A supervisor shall establish and complete a training program for a speech-language pathology or audiology aide in accordance with Section 1399.154.4 which is unique to the duties of the aide and the setting in which he or she will be assisting the supervisor.

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

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

1399.154.3. Maximum Number of Aides.

A supervisor shall not supervise more than three (3) speech-language pathology or audiology aides. The board may authorize more than three supervisees if, in its discretion, the supervisor demonstrates that the public health and safety would not be jeopardized and that he or she can adequately supervise more than three aides.

1399.154.4. Training of Aides.

Before a speech-language pathologist or audiologist allows an aide to assist in the practice of speech-language pathology or audiology under his or her supervision, a speech-language pathology or audiology aide shall complete a training program established by the supervisor. The training program shall include, but is not limited to:

(a) Instruction in the skills necessary to perform any acts or services which are the practice of speech-language pathology or audiology as defined in Section 2530.2 of the code. The supervisor is not required to repeat any training which may have already been received by the aide because of any prior education, training and experience.

(b) A supervisor shall require a speech-language pathology or audiology aide to demonstrate his or her competence to perform any acts or provide any services which are the practice of speech-language pathology or audiology as defined in Section 2530.2 of the code which may be assigned to the aide or which the aide may provide to patients. A supervisor shall allow a speech-language pathology or audiology aide only to perform those acts or to provide those services for which he or she has been provided training and has demonstrated competency.

(c) A supervisor shall instruct a speech-language pathology or audiology aide as to the limitations imposed upon his or her duties, acts or services by these regulations, by his or her training and skills and by the evaluation and treatment plan for any patient.

(d) In addition to the requirements of this section, an industrial audiology aide shall be provided training in the use of an audiometer and in the necessary techniques for obtaining valid and reliable audiograms.

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

1399.154.5. Notice of Termination.

Within 30 days after the termination of the supervision of a speech-language pathology or audiology aide, the supervisor shall notify the board, in writing, of such termination and the date thereof.

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

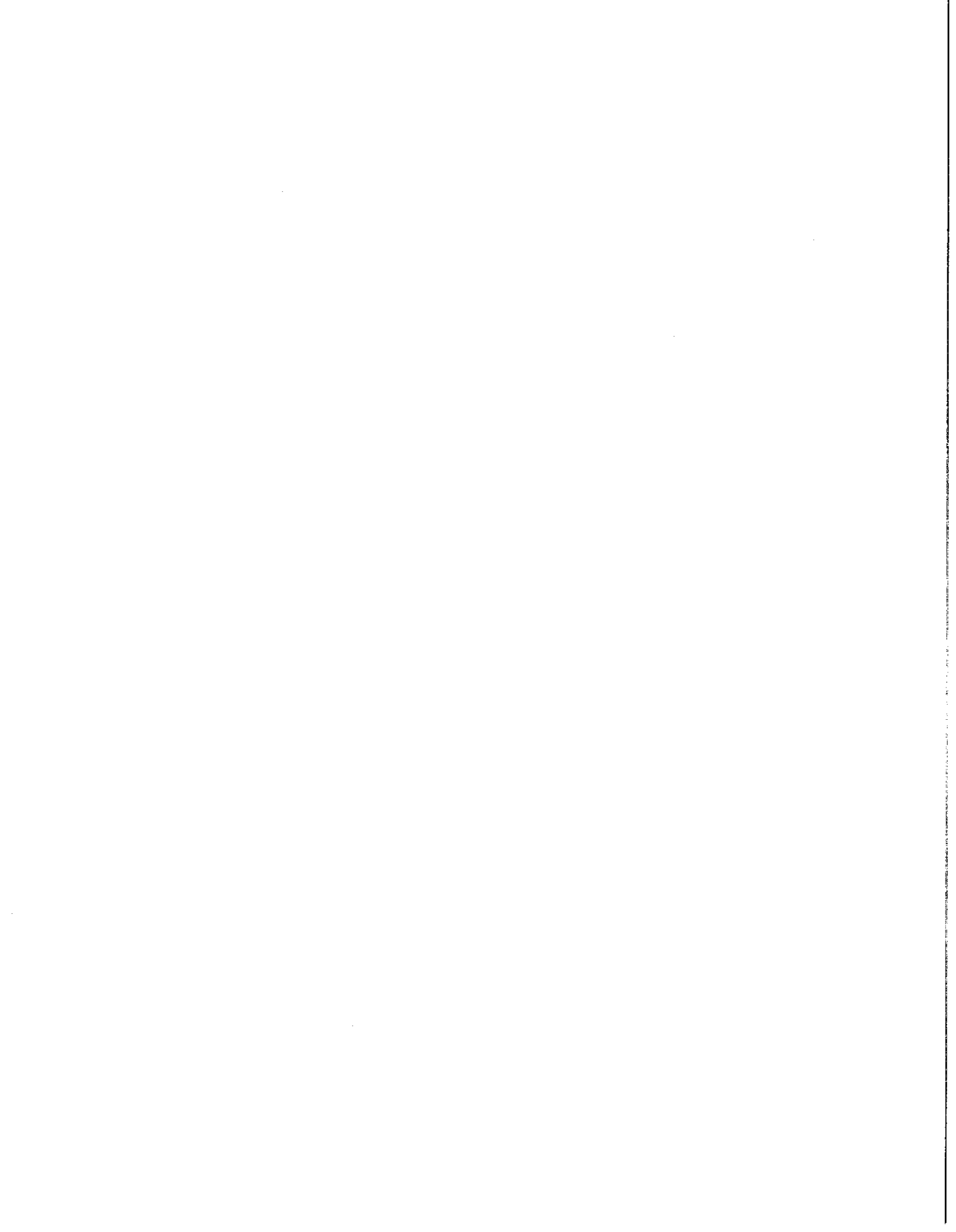
1399.154.6. Noncompliance With Article.

Failure of a supervising licensee to comply with the provisions of this article may result in a forfeiture of the privilege to supervise an aide.

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

1399.154.7. Aide Experience Not Applicable to Qualifications for Licensure.

Any experience obtained acting as a speech-language pathology or audiology aide shall not be creditable toward the supervised clinical experience required in Section 2532.2(c) of the code or the required professional experience required in Section 2532.2(d) of the code.



Business and Professions Code:
Section 2530.2 (m) Audiology Aide:

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

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

1399.154. Definitions.

As used in this article, the term:

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

1399.154.1 Supervision of Audiology Aide.

For the purposes of the supervision of an audiology aide, the following supervision terms shall apply:

(a) "Direct supervision" means on-site observation and guidance by the audiology supervisor while the audiology aide is treating a patient or client. Direct supervision performed by the supervising audiologist may include, but is not limited to, the following: observation of a portion of the testing or treatment procedures performed by the audiology aide, coaching the audiology aide, and modeling for the aide.

(b) "Indirect supervision" means the supervising audiologist is not at the same facility or in close proximity to the audiology aide, but is available to provide supervision by electronic means. Indirect supervision activities performed by the supervising audiologist may include, but are not limited to, demonstration, record review, review and evaluation of recorded sessions, interactive television, and supervisory conferences that may be conducted by telephone or electronic mail. Indirect supervision may be provided to an industrial audiology aide, if all of the following conditions are met:

- (1) An alternative plan of supervision has been approved by the board.
- (2) The supervisor includes the proposed plan with his or her application form.
- (3) The only activity the industrial audiology aide performs outside the physical presence of the supervisor is puretone air conduction threshold audiograms.
- (4) Following the conduction of any puretone air conduction threshold audiograms, the

supervisor reviews the patient histories and the audiograms and make any necessary referrals for evaluation and treatment.

(c) "Immediate supervision" means the supervising audiologist is physically present during services provided to the patient or client by the audiology aide.

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

1399.154.2. Responsibilities of Speech-Language Pathology Aide's Supervisor.

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

- (a) Have legal responsibility for the health, safety and welfare of the patients.
- (b) Have legal responsibility for the acts and services provided by the speech-language pathology ~~or audiology aide~~, including compliance with the provisions of the Act and these regulations.
- (c) Be physically present while the speech-language pathology ~~or audiology aide~~ is assisting with patients, unless an alternative plan of supervision has been approved by the board.
- ~~(d) A supervisor of industrial audiology aides shall include a proposed plan for alternative supervision with the application form. An industrial audiology aide may only be authorized to conduct puretone air conduction threshold audiograms when performing outside the physical presence of a supervisor. The supervisor shall review the patient histories and the audiograms and make any necessary referrals for evaluation and treatment.~~ Evaluate, treat, manage and determine the future dispositions of patients.
- (e) Appropriately train the speech-language pathology ~~or audiology aide~~ to perform duties to effectively assist in evaluation and/or treatment. A supervisor shall establish and complete a training program for a speech-language pathology ~~or audiology aide~~ in accordance with Section 1399.154.4 which is unique to the duties of the aide and the setting in which he or she will be assisting the supervisor.
- (f) Define the services which may be provided by the speech-language pathology ~~or audiology aide~~. Those services shall not exceed the competency of the aide as determined by his or her education, training and experience, and shall not include any treatment beyond the plan established by the supervisor for the patient.

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

1399.154.25. Responsibilities of Audiology Aide's Supervisor.

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

- (a) Have legal responsibility for the health, safety and welfare of the patients.
- (b) Have legal responsibility for the acts and services provided by the audiology aide, including compliance with the provisions of the Act and these regulations.
- (c) Provide the appropriate level of supervision to the audiology aide when he or she is engaged in direct client or patient care or assisting with patients.
- (d) Evaluate, treat, manage and determine the future dispositions of patients.
- (e) Appropriately train the audiology aide to perform duties to effectively assist in evaluation and/or treatment. A supervisor shall establish and complete a training program for the audiology aide in accordance with Section 1399.154.4 which is unique to the duties of the aide and the setting in which he or she will be assisting the supervisor.
- (f) Define the services which may be provided by the audiology aide. Those services shall not exceed the competency of the aide as determined by his or her education, training and experience, and shall not include any treatment beyond the plan established by the supervisor for the patient.
- (g) Ensure that the audiology aide is wearing a nametag, at all times while working, with their name and registration status displayed in at least 18-point type

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

1399.154.3. Maximum Number of Aides.

A supervisor shall not supervise more than three (3) speech-language pathology or audiology aides. The board may authorize more than three supervisees if, in its discretion, the supervisor demonstrates that the public health and safety would not be jeopardized and that he or she can adequately supervise more than three aides.

1399.154.4. Training of Aides.

Before a speech-language pathologist or audiologist allows an aide to assist in the practice of speech-language pathology or audiology under his or her supervision, a speech-language pathology or audiology aide shall complete a training program established by the supervisor. The training program shall include, but is not limited to:

(a) Instruction in the skills necessary to perform any acts or services which are the practice of speech-language pathology or audiology as defined in Section 2530.2 of the code. The supervisor is not required to repeat any training which may have already been received by the aide because of any prior education, training and experience.

(b) A supervisor shall require a speech-language pathology or audiology aide to demonstrate his or her competence to perform any acts or provide any services which are the practice of speech-language pathology or audiology as defined in Section 2530.2 of the code which may be assigned to the aide or which the aide may provide to patients. A supervisor shall allow a speech-language pathology or audiology aide only to perform those acts or to provide those services for which he or she has been provided training and has demonstrated competency.

(c) A supervisor shall instruct a speech-language pathology or audiology aide as to the limitations imposed upon his or her duties, acts or services by these regulations, by his or her training and skills and by the evaluation and treatment plan for any patient.

(d) In addition to the requirements of this section, an industrial audiology aide shall be provided training in the use of an audiometer and in the necessary techniques for obtaining valid and reliable audiograms.

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

1399.154.5. Notice of Termination.

Within 30 days after the termination of the supervision of a speech-language pathology or audiology aide, the supervisor shall notify the board, in writing, of such termination and the date thereof.

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

1399.154.6. Noncompliance With Article.

Failure of a supervising licensee to comply with the provisions of this article may result in a forfeiture of the privilege to supervise an aide.

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

1399.154.7. Aide Experience Not Applicable to Qualifications for Licensure.

Any experience obtained acting as a speech-language pathology or audiology aide shall not be creditable toward the supervised clinical experience required in Section 2532.2(c) of the code or the required professional experience required in Section 2532.2(d) of the code.

1399.154.8. Activities, Duties, and Functions Outside the Scope of Responsibility of an Audiology Aide

An audiology aide may not conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising audiologist. The audiology aide may not perform any of the following functions:

- (1) Provide counseling or advice to a client or a client's parent or guardian which is beyond the scope of the client's treatment;
- (2) Sign any documents in lieu of the supervising audiologist i.e., treatment plans, client reimbursement forms, or formal reports;
- (3) Discharge clients from services;
- (4) Make referrals for additional services;
- (5) Unless required by law, disclose confidential information either orally or in writing to anyone not designated by the supervising audiologist;
- (6) Represent himself or herself as an audiologist;
- (7) Dispense a hearing aid without possessing a valid hearing aid dispensers license;
- (8) Independently adjust hearing aids or cochlear implant settings; and,
- (9) Perform procedures that require a high level of clinical acumen and technical skill, i.e.



BOARD MEETING MINUTES

June 13, 2013

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

Board Members Present

Alison Grimes, Au.D., Chair
Patti Solomon-Rice, Ph.D., Vice Chair
Deane Manning, Hearing Aid Dispenser
Marcia Raggio, Ph.D.
Carol Murphy, M.A.
Amnon Shalev, Hearing Aid Dispenser
Jaime Lee, Esq., Public Member

Staff Present

Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel
Breanne Humphreys, Program Manager

Board Members Absent

Monty Martin, M.A., Public Member
Rodney Diaz, M.D., Public Member

Guests Present

Tricia Hunter, HHP CA
Linda Pippert, Alpha Vista Services, CSHA
Meghan Giffin, Alpha Vista Services
Jean Jackson, EBS Healthcare
Dennis Van Vleit, Audiologist

I. Call to Order

Chairperson Grimes called the meeting to order at 9:16 a.m.

II. Introductions

Those present introduced themselves.

III. Election of Officers/Appointments to Committees

The Board reappointed Ms. Grimes as Board Chair.

The Board appointed Ms. Patti Solomon-Rice as Vice Chair of the Board.

IV. Approval of Meeting Minutes:

A. January 10-11, 2013 Board Meeting Minutes

B. March 12, 2013 Telephonic Board Meeting Minutes

The Board discussed minor edits to the minutes.

M/S/C: Murphy/Manning

The Board voted to approve the January 10-11, 2013 meeting minutes and the March 12, 2013 Telephonic meeting minutes as amended

V. Executive Officer's Report

A. Budget Update

Ms. Del Mugnaio reviewed the Month 10 budget report capturing expenditures through April 30, 2013. She explained that the budget report reflects a surplus of \$133,972; however, a portion of the surplus is earmarked for a new copier with scanning capabilities and an examination validation study for the International English Language Testing Service examination.

Ms. Raggio inquired about whether the excess revenue may be used for travel expenses.

Ms. Del Mugnaio explained that the excess revenue may be used for any approved operational expenses; however, since most non-board meeting travel is restricted, the excess revenue may not be used for restricted travel.

Chairperson Grimes inquired about the General Fund loan borrowed of the Board in fiscal year 2011/2012.

Ms. Del Mugnaio reported that the loan is scheduled to be paid back in installments beginning in fiscal year 2013/2014. She commented that the repayment plan was documented in the Board's Sunset Review Report.

Mr. Manning inquired whether the surplus is retained by the Board.

Ms. Del Mugnaio explained that the surplus is returned to the Board's fund.

Chairperson Grimes inquired whether there were any staff vacancies.

Ms. Del Mugnaio stated that the non-sworn investigator position has been vacant since January 2013, but should be filled by the end of the month. She commented that this would contribute, in part, to the noted surplus.

The Board reviewed various line items and inquired about specific program expenses.

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

Ms. Del Mugnaio reported that she worked with Ms. Humphreys, who serves as the Board's probation monitor, among various other responsibilities, to review the draft guidelines and recommend practical changes to the terms and conditions.

The Board reviewed the proposed minor technical changes.

M/S/C: Shalev/Lee

The Board voted to adopt the proposed text to the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (CCR Section 1399.131 & Section 1399.155)

C. Administrative Updates- BreEze/ Staff Recruitment/ Operational Updates- Continuing Professional Development (CPD) Audit 2013

Ms. Humphreys provided the administrative update:

- Announced the hire of a new non-sworn investigator.
- The rollout of the BreEze project has been postponed and the Board is not scheduled to be online with BreEze until late 2014.
- CPD Audit will begin in Fall 2013.

Ms. Del Mugnaio discussed the audit process and stated that audit information assists the Board in assessing the effectiveness of the CPD program.

D. Update on Exemption Request of the Federal Drug Administration on Mail Order and Catalog Sales of Hearing Aids

Ms. Del Mugnaio stated that the FDA sent her a letter acknowledging receipt of the Board's exemption request. She explained that since the FDA does not have an enforced timeframe to issue a decision on the exemption request, she would follow-up periodically regarding the status.

She stated that Ms. Hunter shared an email with her where the state licensing board in Texas sent a cease and desist letter to Hi Health Innovations regarding the online sell of hearing aids. Ms. Del Mugnaio stated that she would follow-up with the attorney from the Texas Board regarding the outcome of the action.

VI. Legislative Update

A. SB 306- Price- Sunset Bill

Ms. Del Mugnaio reported that the Sunset Bill provisions have been moved to another bill, Senate Bill 305, Lieu. This Senate Bill includes provisions for the Occupational Therapy Board, the Physical Therapy Board, among others, and currently has only one of the technical cleanup provisions that were requested during sunset, the provision regarding a licensee who fails to uphold the terms of a conditional license. However, Ms. Del Mugnaio reported that the other requested cleanup provisions should be reflected in SB 305 once the bill moves through the legislative process.

Ms. Murphy inquired about a provision restricting board member per diem for the Occupational Therapy members.

Ms. Del Mugnaio stated that she was not aware of any restrictions regarding board member travel and per diem for regularly scheduled meetings and authorized board business.

B. AB 1003 –Maienschein – Professional Corporations: Healing Arts Practitioners

Ms. Del Mugnaio stated that AB 1003 would remove the restriction of professional corporations allowing healing arts practitioners to be employed by, or render professional services under a professional corporation, even if the professional corporation is not operated by a licensee from the same healing arts profession. She reported that the bill appears to be stalled as the hearings on the bill have been cancelled.

Ms. Yazigi explained that the content of the bill is especially pertinent to this Board given the discussion surrounding hearing aid dispensers employed by audiologists and vice-versa. She explained that if the bill were to pass, the provisions would authorize any person licensed under the Business and Professions Code to work with another licensed individual, not necessarily licensed in the same profession under a professional corporation.

Chairperson Grimes requested Ms. Del Mugnaio to gather more information regarding the genesis of the bill and report back on its status at the next scheduled board meeting.

C. AB 186 Maienschein- Temporary Licenses-Military Spouse

Ms. Del Mugnaio reported that AB 186 is pending in the Senate. She asked Ms. Yazigi to further explain the intent of the provisions of AB 186.

Ms. Yazigi explained that legislation signed in the prior legislative cycle provided for an expedited review of the application of any spouse or partner of an active military service member. This bill would authorize the licensing agency to issue a temporary or provisional license to a military spouse, during the time the application for permanent license is being

reviewed by the Board. Ms. Yazigi stated that the following requirements must be met prior to the issuance of a provisional license:

- Prove that you are dually licensed in another state,
- Be fingerprinted, and
- No prior disciplinary action.

Chairperson Grimes inquired about a query to the National Practitioners Data Base (NPDB) regarding any prior or pending discipline.

Ms. Del Mugnaio stated that currently the Board does not have the funding to pay for the NPDB query for each new application. She explained that there is a request in the Board's sunset report to amend the licensing law and require applicants to furnish a NPDB report to the Board at the time an application is submitted.

Ms. Tricia Hunter stated that she worked with the author's office on the provisions of AB 186 to add language that would exempt boards which already have a temporary or provisional licensure status and process.

Ms. Del Mugnaio stated that the Board has a temporary license process for each of its license types.

Ms. Del Mugnaio reported that there are other laws which took effect in January 1, 2013 regarding active military personnel which requires the Board to waive renewal fees and CE requirements for licensees who are called to active duty.

D. SB 129 – Wright -Deaf and disabled telecommunications program

Ms. Del Mugnaio distributed the June 5, 2013 amendment to SB 129. She stated that prior to the June 5 amendments, the bill would have expanded the Public Utilities Commission (PUC) program for the deaf and disabled to include assistance to individuals with speech disabilities in terms of purchasing speech-generating devices and specialized equipment. Ms. Del Mugnaio reported that the amendments delete the expansion of the program.

Vice Chairperson Solomon-Rice commented that speech-generating devices are very costly, and therefore, the amendment is likely a funding issue.

Ms. Del Mugnaio stated that Mr. Larry Boules, the Speech-Language Pathology Program Director at the University of Pacific had contacted her to inquire the number of SLPs currently licensed by the Board. She stated that Professor Boules is working with legislative staff on SB 129 in terms of identifying the appropriate professionals to advise the PUC on the purchase of speech-generating devices. Ms. Del Mugnaio stated that she would gather more information regarding the recent amendments and report back to the Board.

SB 176 – Galgiani – Administrative Procedures

Ms. Yazigi explained that SB 176 would require the involvement of interested parties in discussions regarding any proposed regulation changes prior to the proposed regulation being noticed or publicized. Ms. Yazigi stated that the Board currently involves the public in its business by holding public meetings and discussing its proposed changes prior to formulating regulations. She stated that since it is already mandatory for the Board to hold such public discussions at a public meeting, she is unclear as to whether SB 176 adds another layer to the requirement to personally invite parties to such discussions.

Ms. Del Mugnaio stated that the SB 176 is pending in the Assembly.

VII. Practice Committee Reports

A. Hearing Aid Dispensers Committee Recommendations on the Proposed Amendments to the Hearing Aid Dispensers Advertising Regulations, the Development of the Standard of Care Document for Hearing Aid Dispensing, Continuing Education Courses Approved for Hearing Aid Dispensers on Related Professional Topics, and the Proposed Regulatory Amendments to Continuing Education Requirements

Mr. Manning provided an overview of the discussion and recommendation of the Committee regarding amending the advertising provisions for hearing aid dispensers and dispensing audiologists which included that the word only be added to CCR Section 1399.127(b)(2) *For hearing aid dispensers, if advertising a hearing test, state that such test is being performed “only” to properly fit and sell hearing aids.*

Mr. Manning commented that the disclaimer regarding the hearing test should be removed from the advertising regulation.

The Board discussed the difference in the scope of practice for hearing aid dispensers and dispensing audiologists in conducting a hearing test.

Chairperson Grimes commented that the hearing test performed by a dispensing audiologist is diagnostic.

Mr. Shalev stated that a hearing test performed for the purpose of dispensing a hearing aid should be same test regardless of who is performing the test, a dispensing audiologist or a hearing aid dispenser. He stated often the tests are advertised as “free” hearing tests.

Ms. Raggio explained that a dispensing audiologist approaches an audiometric assessment very differently than a hearing aid dispenser. An audiologist is not performing the test with the intention of dispensing a hearing aid.

Mr. Van Vleit provided comments regarding the audiologist scope of practice and stated that audiologists who bill third party payers, such as MediCal or Medicare, may not provide a free hearing test.

Ms. Del Mugnaio commented that existing advertising regulations provide that any advertisement *that advertises a hearing test without qualification as to the nature of hearing test that may be performed by the hearing aid dispenser* is deemed false and misleading advertising.

Mr. Shalev commented that hearing aid dispensers perform tests that do more than determine whether a hearing aid is necessary as the tests determine whether ear wax is an issue and whether there are any physical abnormalities that should be further examined by a physician.

Chairperson Grimes called for the vote on the prior motion.

Mr. Manning commented that the changes to the advertising regulations regarding the manner in which a hearing test is advertised is immaterial as the qualifier already exists in current language and the proposed change approaches the authorization to advertise a hearing test from a different angle.

Ms. Raggio commented that the spirit of the advertising regulations is to inform the consumer that the hearing test as performed by a hearing aid dispenser is not a diagnostic test.

Ms. Del Mugnaio referenced the scope of practice for a hearing aid dispenser as defined in BPC 2538.11 and commented that direct observation of the ear and testing of the hearing which are separate activities.

Ms. Tricia Hunter commented that the proposed regulations should be restricted to advertising and adding the word “only” to the provisions is opening up a scope of practice issue and further commented that any health care practitioner should recognize when there is an abnormality and refer a client for further medical evaluation.

M/S/C: Grimes/Raggio

Recommended that the Board adopt the proposed advertising regulations as drafted with the insertion of the word “only in Section 1399.127(b)(2).

Ayes: Grimes, Raggio

Nays: Lee, Murphy, Shalev, Solomon-Rice, Manning

M/S/C: Manning/Lee

The Board adopt the proposed advertising regulations as drafted and notice the proposed changes for a 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and further delegate the authority of the Executive Officer to make any technical and non-substantive changes that may be required in completing the rulemaking file.

Ayes: Lee, Manning, Murphy, Shalev, Solomon-Rice

Nays: Grimes, Raggio

Mr. Manning provided a report of the remainder of the items discussed at the Hearing Aid Dispensers Committee (as documented in the Hearing Aid Dispensers Committee Meeting Minutes).

Mr. Manning requested Ms. Del Mugnaio to outline the changes to the CE regulations proposed during the Committee meeting.

Ms. Del Mugnaio reviewed the changes.

M/S/C: Manning/Lee

Nays: Solomon-Rice

The Board adopted the recommendations of the Hearing Aid Dispensers Committee regarding the proposed CE changes for hearing aid dispensers as outlined and delegated to Ms. Del Mugnaio to notice the document for a forty-five day public comment period and adopt the proposed changes if there are not adverse comments received during the public comment period; delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Vice Chairperson Solomon-Rice stated that she is in support of removing the limitation to self-study activities for all licensees. She commented that self-study activities have value and are conducive to professionals taking their time to ingest complex research studies, etc.

Chairperson Grimes inquired whether the Department has evaluated the self-study issue for all CE programs and determined whether self-study activities are an appropriate mode of on-going professional education.

Ms. Del Mugnaio commented that the Department has expressed an interest in the boards and bureaus moving forward with a continued competency plan which typically includes a variety of professional activities beyond courses. She stated that the hearing aid dispensers' CE regulations have been silent on whether self-study was acceptable toward the license renewal requirement. The new regulation changes would authorize a limited number of self-study as an appropriate mode of course delivery.

B. Speech-Language Pathology Practice Committee Report and Recommendations on the Discussion of Internationally Trained Students and Proposed Regulatory Amendments, and the Review of National Standards for Speech-Language Pathology Assistants and Proposed Regulatory Amendments

Ms. Murphy provided the report from the Speech-Language Pathology Practice Committee meeting and stated that the meeting was informational only and therefore, no formal action was taken.

The Board discussed the issue of amending current regulations CCR Section 1399.152.1 to address internationally trained applicants.

Ms. Linda Pippert commented that her work involves reviewing the academic merit of internationally trained applicants and that she has seen a variety of program requirements from other countries and the requirements are not always equivalent to training in the United States, especially in terms of training for competency. She stated that research methods and diagnostics taught in other countries are not standardized. Ms. Pippert stated that students graduating from international institutions often serve as professors at the international institution immediately upon graduation. She further commented that the English-language competency or lack thereof, with internationally trained students is a serious issue in terms of the students being able to adequately communicate with their clients and peers.

Vice Chair Solomon-Rice and Ms. Raggio agreed to collect data from California programs on the course work requirements, both graduate and undergraduate, for speech-language pathologists. The data will include a minimum number of units and competencies that should be completed within a speech-language pathology program. The data will be brought before the Board and used to amend current provisions regarding equivalent qualifications.

Ms. Murhpy inquired about the discussion surrounding the type and amount of supervision that should be afforded an SLPA as recommended by the American Speech-Language-Hearing Association (ASHA). She inquired about the type of supervision that should be provided following the first ninety (90) days.

Ms. Del Mugnaio stated that she is not familiar with the ASHA standards for SLPAs in terms of their practical application in the workforce.

Ms. Murphy and Vice Chair Solomon-Rice expressed an interest in crafting regulations that would require a specified amount of direct supervision.

Ms. Jean Jackson, from EBS Healthcare, commented that she has seen a lack of responsibility on the part of the SLPA supervisor in the workforce, and that it is often other speech-language pathologists, not their assigned supervisor, who is working with the SLPA.

Chairperson Grimes suggested that the Board collect more data on the supervision standards of SLPAs in other states.

Ms. Murphy agreed to conduct the research for the Board and bring the data before the Board at the October 2013 Board meeting.

C. Audiology Practice Committee Report and Recommendations on the Discussion Regarding the Treatment of Tinnitus and Provisions for Tinnitus Devices, Legal Opinion Regarding Audiologists Participation in the AARP/HearUSA Hearing Aid Program, and Proposed Regulations for Audiology Aide Supervision Standards and Practice Limitations

Chairperson Grimes provided the Audiology Practice Committee report as follows:

- Reviewed the oversight of a tinnitus device and whether the Song Beverly Consumer Warranty Act (SBCWA) covers a tinnitus device and whether the scope of practice of an audiologist includes the non-medical treatment of tinnitus. Ms. Grimes stated that the Committee determined through legal consultation of Ms. Yazigi that a tinnitus device is covered under SBCWA, however, the oversight of dispensing a tinnitus device is not under the Board's jurisdiction. She further commented that a letter to the inquirer should reflect that treatments offered by a licensed provider should be based in peer-reviewed research and should be proven to be efficacious.

Mr. Shalev commented that he believes that the lack of oversight of the dispensing of tinnitus devices is a consumer protection issue and that the taking of an ear impression should be a regulated function by the Board.

Chairperson Grimes delegated to Ms. Del Mugnaio the task of responding to the inquiring licensee regarding the Board's oversight of audiologists treating tinnitus and the lack of Board oversight of the dispensing of tinnitus devices, even though, the warranty of the devices are covered under the SBCWA. She further requested that Ms. Del Mugnaio convey the importance of only providing therapeutic interventions that are efficacious and support by peer-reviewed evidence.

- Chairperson Grimes reported on the discussion regarding the HearUSA/AARP program as included in the Audiology Practice Committee Meeting Minutes.

Mr. Shalev stated that while he abstained from the vote to adopt Ms. Yazigi's opinion during the Committee discussion, he is in support of the motion to accept the opinion as a public document as it pertains to the legal analysis of the plan as defined in December 2012.

M/S/C: Grimes/Lee

The Board voted to adopt the recommendation of the Audiology Practice Committee regarding Ms. Yazigi's legal conclusion of the HearUSA/AARP program and directed staff to field questions from licensees regarding the legal merit of participating in the HearUSA/AARP program as described in the December 2012 correspondence from HearUSA.

- Chairperson Grimes reported that she and Ms. Raggio, with input from Ms. Becky Bingea, will craft language regarding the supervision standards and scope of practice for audiology aides and will bring the language before the Committee and Board at the October 2013 meeting.

M/S/C: Grimes/Raggio

The Board voted to accept the report from the Audiology Practice Committee meeting.

VIII. Employment Practices for Licensees (Business & Professions Code Sections 655.2 & 2538.20, Corporation Code Section 13400 et seq.)

Ms. Yazigi stated that at the January 2013 Board meeting, the Board voted to amend Section 655.2 to make the provision bi-directional so that the provision restricts the employment of a hearing aid dispenser by a non-dispensing audiologist or physician, and the employment of a non-dispensing audiologist or physician by a hearing aid dispenser.

Ms. Yazigi commented that the intent of the legislation was to avoid collusion between the referring parties and the selling parties.

She stated that Mr. Shalev requested that Ms. Yazigi confer with supervising counsel regarding the terminology of the *medical corporation* language in BPC 655.2. Ms. Yazigi stated that in her conversations with supervising counsel, she learned that based on the construction of the statute where the inclusion of the terminology regarding the *medical corporation* in paragraph one of Section 655.2 sets forth the general rule covered in the **Corporation's Code** and the language in paragraph two provides for the exception to the general rule. Striking the terminology to the medical corporation language would serve to invite legislative scrutiny rather than further clarify the provision.

M/S/C: Lee/Shalev

The Board voted to approve the proposed language to BPC 655.2 making the provision bi-directional, but retaining the terminology regarding the medical corporation.

IX. Licensing/Enforcement/Examination Statistical Data

The Board reviewed the statistical data.

Ms. Del Mugnaio explained the use of sworn versus non-sworn investigators in enforcement cases.

Chairperson Grimes inquired about the license types documented in the hearing aid dispenser examination statistics, in terms of what "HT" refers to.

Ms. Del Mugnaio explained that "HTs" are hearing aid trainees and may be comprised of audiology doctoral students and hearing aid trainees.

Chairperson Grimes confirmed that the Hearing Aid Dispensers Practical Examination must be offered at least twice annually.

Ms. Del Mugnaio confirmed that the Hearing Aid Dispensers Examination must be offered at least twice per year (BPC 2538.1). Typically, the Board offers the examination between 3 or 4 times per year to accommodate the applicant pool.

X. Closed Session (pursuant to Government Code Subsections 11126(a)(1)) -Discussion of Executive Officer Performance Evaluation

The Board went into closed session to discuss the performance of the Executive Officer

XI. Public Comment on Items Not on the Agenda/ Future Agenda Items- Pending Issues Before the Board

There were no further public comments.

Ms. Del Mugnaio reviewed the pending issues before the Board.

- Tinnitus/Tinnitus Devices- Scope of Responsibility
- Audiology Aide – Formal Training
- Taking of Ear Mold Impressions
- Discussion of Credentialing –vs.- Licensure
- Differences Between SLP Aides –vs.- SLPAs
- Supervisory Training Manual for Hearing Aid Dispensers

Vice Chair Solomon-Rice requested that the Board discuss the issue of including ethics training as a mandatory part of the CE requirements for all licensees.

Vice Chair Solomon-Rice requested information regarding the process for approving CE providers and how changes in program regulations are communicated to the provider.

XII. Announcements- Future 2013 Board Meetings- October 10-11, 2013- San Diego

The Board announced that the next Board meeting will be held October 10-11, 2013 in San Diego. A future meeting was scheduled for February 6-7, 2014 in Los Angeles.

XIII. Adjournment

Chairperson Grimes adjourned the meeting at 2:32 p.m.



Telephonic Meeting Minutes September 11, 2013

Department of Consumer Affairs

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

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Participating Board Members

Alison Grimes, AuD, Audiologist – Chairperson
Patti Solomon-Rice, PhD, Speech-Language Pathologist
Amnon Shalev, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Dee Parker, PhD., Speech-Language Pathologist
Jaime Lee, JD, Public Member
Monty Martin, MA, Public Member
Marcia Raggio, PhD, Audiologist

Staff Present

Annemarie Del Mugnaio, Executive Officer
Breanne Humphreys, Board Staff
Claire Yazigi, Legal Counsel
Sabina Knight, Legal Counsel
Corrine Fishman, Department of Consumer Affairs

I. Call to Order

Chairperson Grimes called the meeting to order at 12:38 p.m.

II. Introductions

Those present introduced themselves.

CLOSED SESSION

III. Closed Session (pursuant to Government Code Section 11126(c)(3)) – Other APA Enforcement Actions- Discuss Process for Considering a Petition for Reconsideration

The Board convened in closed session to discuss the process for considering testimony on a petition for reconsideration following a decision to revoke the license of a licensee.

The Board reconvened in open session.

IV. Consider Proposed Amendments to Continuing Education for Hearing Aid Dispensers (California Code of Regulations 1399.140-1399.144)

The Board tabled the discussion regarding the proposed amendments to the continuing education requirements for hearing aid dispensers until the October 10-11, 2013 Board meeting.

V. Public Comment on Items Not on the Agenda

There were no public comments.

VI. Adjournment

Chairperson Grimes adjourned the meeting at 1:20 p.m.

Senate Bill No. 305

Passed the Senate September 10, 2013

Secretary of the Senate

Passed the Assembly September 9, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____ M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1000, 2450, 2450.3, 2530.2, 2531, 2531.06, 2531.75, 2532.6, 2533, 2570.19, 3010.5, 3014.6, 3046, 3056, 3057, 3110, 3685, 3686, 3710, 3716, and 3765 of, and to add Sections 144.5 and 3090.5 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 305, Lieu. Healing arts: boards.

(1) Existing law requires specified regulatory boards within the Department of Consumer Affairs to require an applicant for licensure to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.

This bill would additionally authorize those boards to request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation and would authorize a local or state agency to provide those records to the board upon request.

(2) The Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law specifies that the law governing chiropractors is found in the act.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if these provisions were scheduled to be repealed on January 1, 2018. This bill would also make nonsubstantive changes to conform with the Governor's Reorganization Plan No. 2.

(3) Existing law, the Osteopathic Act, provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that the review be performed as if these provisions were scheduled to be repealed as of January 1, 2018.

(4) Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2014, and subjects the board to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature.

The Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act also authorizes the board to refuse to issue, or issue subject to terms and conditions, a license on specified grounds, including, among others, securing a license by fraud or deceit.

This bill would additionally authorize the board to refuse to issue, or issue subject to terms and conditions, a license for a violation of a term or condition of a probationary order of a license or a term or condition of a conditional license issued by the board, as provided. The bill would also delete an obsolete provision and make other technical changes.

(5) Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists, as defined, by the California Board of Occupational Therapy. Existing law repeals those provisions on January 1, 2014, and subjects the board to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature.

(6) Existing law, the Naturopathic Doctors Act, until January 1, 2014, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. Existing law also specifies that the repeal of the committee subjects it to review by the appropriate policy committees of the Legislature.

This bill would extend the operation of these provisions until January 1, 2018, and make conforming changes.

(7) Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. The Respiratory Care Act provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Each of those acts authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2014, and subjects the boards to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the boards to review by the appropriate policy committees of the Legislature.

(8) The Optometry Practice Act prescribes license eligibility requirements, including, but not limited to, not having been convicted of a crime, as specified. The act defines unprofessional conduct to include, committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist. Under the act, the board may take action against a licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed an act of unprofessional conduct. Under existing law, commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action against any healing arts licensee, subject to a specified exception for a physician and surgeon.

This bill would add to the license eligibility requirements under the act that the applicant is not currently required to register as a sex offender, as specified. The bill would make conviction of a crime that currently requires a licensee to register as a sex offender unprofessional conduct and would expressly specify that commission of an act of sexual abuse or misconduct, as specified, constitutes unprofessional conduct, subject to an exception for an optometrist treating his or her spouse or person in an equivalent domestic relationship. The bill would also state that those acts of unprofessional conduct shall be considered crimes substantially related to the qualifications, functions, or duties of a licensee. The

bill would also expressly specify that the board may revoke a license if the licensee has been found, in an administrative proceeding, as specified, to have been convicted of sexual misconduct or convicted of a crime that currently requires the licensee to register as a sex offender.

(9) The Respiratory Care Act also prohibits a person from engaging in the practice of respiratory care unless he or she is a licensed respiratory care practitioner. However, the act does not prohibit specified acts, including, among others, the performance of respiratory care services in case of an emergency or self-care by a patient.

This bill would additionally authorize the performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

This bill would make legislative findings and declarations as to the necessity of a special statute for the persons described above.

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

SECTION 1. Section 144.5 is added to the Business and Professions Code, to read:

144.5. Notwithstanding any other law, a board described in Section 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

SEC. 2. Section 1000 of the Business and Professions Code is amended to read:

1000. (a) The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

(b) The State Board of Chiropractic Examiners is within the Department of Consumer Affairs.

(c) Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 3. Section 2450 of the Business and Professions Code is amended to read:

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 4. Section 2450.3 of the Business and Professions Code is amended to read:

2450.3. There is within the jurisdiction of the Osteopathic Medical Board of California a Naturopathic Medicine Committee authorized under the Naturopathic Doctors Act (Chapter 8.2 (commencing with Section 3610)). This section shall become inoperative on January 1, 2018, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the Naturopathic Medicine Committee subject to review by the appropriate policy committees of the Legislature.

SEC. 5. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

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

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

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

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

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

(3) Conducting hearing screenings.

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

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

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

(f) A licensed speech-language pathologist shall not perform a flexible fiber optic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiber optic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written

verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiber optic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

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

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

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

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related

to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

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

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

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

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

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

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 6. Section 2531 of the Business and Professions Code is amended to read:

2531. (a) There is in the Department of Consumer Affairs the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 7. Section 2531.06 of the Business and Professions Code is amended to read:

2531.06. (a) The board is vested with the duties, powers, purposes, responsibilities, and jurisdiction over the licensing and regulation of hearing aid dispensers as provided under Article 8 (commencing with Section 2538.10).

(b) In the performance of the duties and the exercise of the powers vested in the board under this chapter, the board may consult with hearing aid dispenser industry representatives.

(c) For the performance of the duties and the exercise of the powers vested in the board under this chapter, the board shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former Hearing Aid Dispensers Bureau.

(d) All regulations in Division 13.3 (commencing with Section 1399.100) of Title 16 of the California Code of Regulations are

continued in existence under the administration of the board until repealed by regulation.

SEC. 8. Section 2531.75 of the Business and Professions Code is amended to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 9. Section 2532.6 of the Business and Professions Code is amended to read:

2532.6. (a) The Legislature recognizes that the education and experience requirements of this chapter constitute only minimal requirements to assure the public of professional competence. The Legislature encourages all professionals licensed and registered by the board under this chapter to regularly engage in continuing professional development and learning that is related and relevant to the professions of speech-language pathology and audiology.

(b) The board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the board that he or she has completed in the preceding two years not less than the minimum number of continuing professional development hours established by the board pursuant to subdivision (c) for the professional practice authorized by his or her license or registration.

(c) (1) The board shall prescribe the forms utilized for and the number of hours of required continuing professional development for persons licensed or registered under this chapter.

(2) The board shall have the right to audit the records of any applicant to verify the completion of the continuing professional development requirements.

(3) Applicants shall maintain records of completion of required continuing professional development coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(d) The board shall establish exceptions from the continuing professional development requirements of this section for good cause as defined by the board.

(e) (1) The continuing professional development services shall be obtained from accredited institutions of higher learning, organizations approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, the California Medical Association's Institute for Medical Quality Continuing Medical Education Program, or other entities or organizations approved as continuing professional development providers by the board, in its discretion.

(2) No hours shall be credited for any course enrolled in by a licensee that has not first been approved and certified by the board, if the board has sufficient funding and staff resources to implement the approval and certification process.

(3) The continuing professional development services offered by these entities may, but are not required to, utilize pretesting and posttesting or other evaluation techniques to measure and demonstrate improved professional learning and competency.

(4) An accredited institution of higher learning, an organization approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, and the California Medical Association's Institute for Medical Quality Continuing Education Program shall be exempt from any application or registration fees that the board may charge for continuing education providers.

(5) Unless a course offered by entities listed in paragraph (4) meets the requirements established by the board, the course may not be credited towards the continuing professional development requirements for license renewal.

(6) The licensee shall be responsible for obtaining the required course completion documents for courses offered by entities specified in paragraph (1).

(f) The board, by regulation, shall fund the administration of this section through professional development services provider and licensing fees to be deposited in the Speech-Language Pathology and Audiology Board Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section.

(g) The continuing professional development requirements adopted by the board shall comply with any guidelines for

mandatory continuing education established by the Department of Consumer Affairs.

SEC. 10. Section 2533 of the Business and Professions Code is amended to read:

2533. 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.

(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 of a license issued by the board pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(m) Violation of a term or condition of a conditional license issued by the board pursuant to this section.

SEC. 11. Section 2570.19 of the Business and Professions Code is amended to read:

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy

assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 12. Section 3010.5 of the Business and Professions Code is amended to read:

3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 13. Section 3014.6 of the Business and Professions Code is amended to read:

3014.6. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 14. Section 3046 of the Business and Professions Code is amended to read:

3046. In order to obtain a license to practice optometry in California, an applicant shall have graduated from an accredited school of optometry, passed the required examinations for licensure, not have met any of the grounds for denial established in Section 480, and not be currently required to register as a sex offender pursuant to Section 290 of the Penal Code. The proceedings under this section shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Section 3056 of the Business and Professions Code is amended to read:

3056. (a) The board may issue a license to practice optometry to a person who meets all of the following qualifications:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Is currently licensed in another state.

(3) Is currently a full-time faculty member of an accredited California school or college of optometry and has served in that capacity for a period of at least five continuous years.

(4) Has attained, at an accredited California school or college of optometry, the academic rank of professor, associate professor, or clinical professor, except that the status of adjunct or affiliated faculty member shall not be deemed sufficient.

(5) Has successfully passed the board's jurisprudence examination.

(6) Is in good standing, with no past or pending malpractice awards or judicial or administrative actions.

(7) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(8) Has met the requirements of Section 3041.3 regarding the use of therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(9) Has never had his or her license to practice optometry revoked or suspended.

(10) (A) Is not subject to denial based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(11) Pays an application fee in an amount equal to the application fee prescribed by the board pursuant to Section 3152.

(12) Files an application on a form prescribed by the board.

(b) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(c) The term "in good standing," as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains

conditions placed by an agency upon a person's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 16. Section 3057 of the Business and Professions Code is amended to read:

3057. (a) The board may issue a license to practice optometry to a person who meets all of the following requirements:

(1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.

(2) Has successfully passed the licensing examination for an optometric license in another state.

(3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.

(4) Submits proof that he or she has been in active practice in a state in which he or she is licensed for a total of at least 5,000 hours in five of the seven consecutive years immediately preceding the date of his or her application under this section.

(5) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(6) Has furnished a signed release allowing the disclosure of information from the Healthcare Integrity and Protection Data Bank and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.

(7) Has never had his or her license to practice optometry revoked or suspended.

(8) (A) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.

(B) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.

(9) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.

(10) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.

(11) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.

(12) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:

(A) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.

(B) That the person has not been convicted of an offense involving conduct that would violate Section 810.

(13) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.

(14) Has successfully passed the board's jurisprudence examination.

(b) If the board finds that the competency of a candidate for licensure pursuant to this section is in question, the board may require the passage of a written, practical, or clinical exam or completion of additional continuing education or coursework.

(c) In cases where the person establishes, to the board's satisfaction, that he or she has been displaced by a federally declared emergency and cannot relocate to his or her state of practice within a reasonable time without economic hardship, the board is authorized to do both of the following:

(1) Approve an application where the person's time in active practice is less than that specified in paragraph (4) of subdivision (a), if a sufficient period in active practice can be verified by the board and all other requirements of subdivision (a) are satisfied by the person.

(2) Reduce or waive the fees required by paragraph (13) of subdivision (a).

(d) Any license issued pursuant to this section shall expire as provided in Section 3146, and may be renewed as provided in this chapter, subject to the same conditions as other licenses issued under this chapter.

(e) The term “in good standing,” as used in this section, means that a person under this section:

(1) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of optometry by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon a person’s professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of optometry that the board determines constitutes evidence of a pattern of incompetence or negligence.

(2) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the person is unable to undertake the practice of optometry in a manner consistent with the safety of a patient or the public.

SEC. 17. Section 3090.5 is added to the Business and Professions Code, to read:

3090.5. The board may revoke a license issued to a licensee upon a decision, made in a proceeding as provided in Section 3092, that contains a finding of fact of either of the following:

(a) The licensee has engaged in an act of sexual abuse, misconduct, or relations with a patient, as described in paragraph (2) of subdivision (m) of Section 3110.

(b) The licensee has been convicted of a crime described in paragraph (3) of subdivision (m) of Section 3110.

SEC. 18. Section 3110 of the Business and Professions Code is amended to read:

3110. The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.

(d) Incompetence.

(e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

(f) Any action or conduct that would have warranted the denial of a license.

(g) The use of advertising relating to optometry that violates Section 651 or 17500.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license by another state or territory of the United States, by any other governmental agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(i) Procuring his or her license by fraud, misrepresentation, or mistake.

(j) Making or giving any false statement or information in connection with the application for issuance of a license.

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

(l) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self administration of any of the substances referred to in this subdivision, or any combination thereof.

(m) (1) Committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist.

(2) Committing any act of sexual abuse, misconduct, or relations with a patient. The commission of and conviction for any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee. This paragraph shall not apply to sexual contact between any person licensed under this chapter and his or her spouse or person in an equivalent domestic relationship when that licensee provides optometry treatment to his or her spouse or person in an equivalent domestic relationship.

(3) Conviction of a crime that currently requires the person to register as a sex offender pursuant to Section 290 of the Penal Code. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction described in this paragraph shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

(n) Repeated acts of excessive prescribing, furnishing or administering of controlled substances or dangerous drugs specified in Section 4022, or repeated acts of excessive treatment.

(o) Repeated acts of excessive use of diagnostic or therapeutic procedures, or repeated acts of excessive use of diagnostic or treatment facilities.

(p) The prescribing, furnishing, or administering of controlled substances or drugs specified in Section 4022, or treatment without a good faith prior examination of the patient and optometric reason.

(q) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(r) Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.

(s) The practice of optometry without a valid, unrevoked, unexpired license.

(t) The employing, directly or indirectly, of any suspended or unlicensed optometrist to perform any work for which an optometry license is required.

(u) Permitting another person to use the licensee's optometry license for any purpose.

(v) Altering with fraudulent intent a license issued by the board, or using a fraudulently altered license, permit certification or any registration issued by the board.

(w) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood borne infectious diseases from optometrist to patient, from patient to patient, or from patient to optometrist. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood borne pathogens in health care settings. As necessary, the board may consult with the Medical Board of California, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

(x) Failure or refusal to comply with a request for the clinical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, unless the licensee is unable to provide the documents within this time period for good cause.

(y) Failure to refer a patient to an appropriate physician in either of the following circumstances:

(1) Where an examination of the eyes indicates a substantial likelihood of any pathology that requires the attention of that physician.

(2) As required by subdivision (c) of Section 3041.

SEC. 19. Section 3685 of the Business and Professions Code is amended to read:

3685. Notwithstanding any other law, the repeal of this chapter renders the committee subject to review by the appropriate policy committees of the Legislature.

SEC. 20. Section 3686 of the Business and Professions Code is amended to read:

3686. This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 21. Section 3710 of the Business and Professions Code is amended to read:

3710. (a) The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 22. Section 3716 of the Business and Professions Code is amended to read:

3716. The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 23. Section 3765 of the Business and Professions Code is amended to read:

3765. This act does not prohibit any of the following activities:

(a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained

in these modalities and are duly licensed under the provisions of an act pertaining to their specialty.

(e) Respiratory care services in case of an emergency. "Emergency," as used in this subdivision, includes an epidemic or public disaster.

(f) Persons from engaging in cardiopulmonary research.

(g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication as defined in Section 1596.798 of the Health and Safety Code.

(h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of Public Health of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the board.

(i) The performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

SEC. 24. The Legislature finds and declares that a special law, as set forth in Section 18 of this act, is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

Approved _____, 2013

Governor

Bill Analysis

SENATE RULES COMMITTEE	SB 305
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	

UNFINISHED BUSINESS

Bill No: SB 305
Author: Lieu (D), et al.
Amended: 9/6/13
Vote: 21

SENATE BUSINESS, PROF. & ECON. DEV.COMM. : 10-0, 4/29/13
AYES: Price, Emmerson, Block, Corbett, Galgiani, Hernandez,
Hill, Padilla, Wyland, Yee

SENATE APPROPRIATIONS COMMITTEE : 7-0, 5/23/13
AYES: De León, Walters, Gaines, Hill, Lara, Padilla, Steinberg

SENATE FLOOR : 37-0, 5/28/13
AYES: Anderson, Beall, Berryhill, Block, Cannella, Corbett,
Correa, De León, DeSaulnier, Emmerson, Evans, Fuller, Gaines,
Galgiani, Hancock, Hill, Hueso, Huff, Jackson, Knight, Lara,
Leno, Lieu, Liu, Monning, Nielsen, Padilla, Pavley, Price,
Roth, Steinberg, Torres, Walters, Wolk, Wright, Wyland, Yee
NO VOTE RECORDED: Calderon, Hernandez, Vacancy

ASSEMBLY FLOOR : 75-0, 9/9/13 - See last page for vote

SUBJECT : Healing arts: boards

SOURCE : Author

DIGEST : This bill extends the sunset, until January 1, 2018,
of several licensing boards within the Department of Consumer
Affairs (DCA) and makes certain statutory changes to those
boards' responsibilities.

CONTINUED

Assembly Amendments delete provisions relating to the Physical Therapy Board and the Acupuncture Board; delete an obsolete provision of law relating to license or registration renewals by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (SLPAHADB); add provisions relating to optometry licensure requirements; and make technical and clarifying changes.

ANALYSIS :

Existing law:

1. Requires any board, bureau or program within DCA to require an applicant for licensure to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.
2. Provides for the licensure and regulation of chiropractors by Board of Chiropractic Examiners (BCE).
3. Provides for the licensure and regulation of osteopathic physicians and surgeons by Osteopathic Medical Board of California (OMB).
4. Provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the SLPAHADB, and authorizes the appointment of an executive officer to the SLPAHADB, until January 1, 2014, and subjects the SLPAHAB to review by the Joint Committee on Boards, Commissions, and Consumer Protection. Authorizes the SLPAHADB to refuse a license on specified grounds, including, among others, securing a license by fraud or deceit.
5. Provides for the licensure and regulation of occupational therapists by the Board of Occupational Therapy (BOT), until January 1, 2014, and subjects the BOT to review by the Joint Committee on Boards, Commissions, and Consumer Protection.
6. Establishes the Naturopathic Medicine Committee (NMC), within the OMB, and permits the NMC to license and regulate naturopathic doctors, until January 1, 2014, and subjects the NMC to review by the appropriate policy committees of the Legislature.

CONTINUED

7. Provides for the licensure and regulation of optometrists by the Board of Optometry (CBO) and authorizes CBO to employ an executive officer until January 1, 2014, and subjects the CBO to review by the Joint Committee on Boards, Commissions, and Consumer Protection.
8. Provides for the licensure and regulation of respiratory care practitioners by Respiratory Care Board (RCB) and authorizes RCB to employ an executive officer, until January 1, 2014, and specifies activities that are not prohibited by the Respiratory Care Act.

This bill:

1. Specifies that any board under the DCA is authorized to receive certified records from a local or state agency of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation; and specifies that a local or state agency is authorized to provide those records to a board upon receipt of such a request.
2. Revises the provisions of the Naturopathic Doctors Act by:
 - A. Extending, until January 1, 2018, the provisions establishing the NMC.
 - B. Specifying that the NMC is subject to review by the appropriate policy committees of the Legislature.
3. Revises the provisions of the Chiropractic Act by:
 - A. Extending, until January 1, 2018, the provisions establishing the BCE.
 - B. Specifying that the BCE is subject to review by the appropriate policy committees of the Legislature.
 - C. Making nonsubstantive changes to conform with GRP 2.
4. Revises the provisions of the Optometry Practice Act by:

CONTINUED

- A. Extending, until January 1, 2018, (1) the provisions establishing the CBO, and (2) the term of the executive officers of CBO.
 - B. Specifying that CBO is subject to review by the appropriate policy committees of the Legislature.
 - C. Providing that in order to obtain a license to practice optometry in California, an applicant may not currently be required to register as a sex offender.
 - D. Authorizing the CBO to revoke a license upon a decision made in a proceeding, as specified, that contains a finding or fact of either the following: (a) The licensee has engaged in an act of sexual abuse, misconduct, or relations with a patient; or (b) the licensee has been convicted of a sexually related crime that constitutes professional misconduct.
 - E. Specifying that the commission by a licensee of any act of sexual abuse, misconduct, or relations with a patient is unprofessional conduct.
 - F. Specifying that the commission of, an conviction for, any act of sexual abuse, sexual misconduct or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee, but excludes sexual contact between a licensee and his/her spouse or person in an equivalent domestic relationship when the licensee provides optometry treatment to that person.
 - G. Specifying that the conviction of a crime that currently requires the person to register as a sex offender is considered unprofessional conduct, as specified, and a crime substantially related to the qualifications, functions, or duties of a licensee.
5. Revises the provisions of the Respiratory Care Act by:
- A. Extending, until January 1, 2018, (1) the provisions establishing the RCB, and (2) the term of the executive officers of the RCB.

CONTINUED

- B. Specifying that the RCB is subject to be reviewed by the appropriate policy committees of the Legislature.
 - C. Exempting individuals who have performed pulmonary function tests in Los Angeles County facilities for at least 15 years, from licensure as a respiratory care therapist.
6. Revises the provisions of the Osteopathic Act by:
- A. Requiring that the powers and duties of the OMB be subject to review by the appropriate policy committees of the Legislature.
 - B. Requiring that the review of the OMB be performed as if these provisions were scheduled to be repealed January 1, 2018.
7. Revises the provisions of the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act by:
- A. Extending, until January 1, 2018, the provisions establishing the SLPAHADB.
 - B. Specifying that the SLPAHADB is subject to be reviewed by the appropriate policy committees of the Legislature.
 - C. Authorizing the SLPAHADB to refuse to issue a license for a violation of term or condition of a probationary order of a license issued by the SLPAHADB, as provided.
 - D. Clarifying that certain regulations will continue in existence under the administration of the SLPAHADB until repealed by regulation.
 - E. Deleting an obsolete reference to license or registration renewal between January 1, 2001, and January 1, 2002.
8. Revises the provisions of the Occupational Therapy Practice Act by:
- A. Extending, until January 1, 2018, the provisions

CONTINUED

B. Specifying that the SLPAHADB is subject to be reviewed by the appropriate policy committees of the Legislature.

9. Makes other technical and clarifying changes.

Background

This bill is one of six "sunset review bills" authored by the Chair of the Senate Business, Professions and Economic Development (BPED) Committee. Unless legislation is carried this year to extend the sunset dates for the NMC, RCB, and the CBO, they will be repealed on January 1, 2014. Because it was created via initiative act, OMB does not have a sunset date. This bill specifies that as of January 1, 2018, the OMB will be reviewed consistent with other healing arts boards under the DCA that are subject to a four-year sunset review period. This bill exempts certain employees from going through the laborious process of becoming certified respiratory therapists when they have been safely and reliably performing services for over 15 years at Los Angeles County safety net hospitals. This bill allows all DCA boards to receive certified records from a local or state agency of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation.

In 2013, the Senate Business, Professions and Economic Development Committee conducted oversight hearings to review 14 regulatory boards within the DCA. The Committee began its review of these licensing agencies in March and conducted three days of hearings. This bill, and the accompanying sunset bills, is intended to implement legislative changes as recommended in the Committee's Background/Issue Papers for all of the agencies reviewed by the Committee this year.

NOTE: For a detailed summary of the issues and recommendations relating to the NMC, RCB, CBO, and MBO, refer to of the Committee's analysis.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: No

CONTINUED

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SUPPORT : (Verified 9/9/13)

Association of Regulatory Boards of Optometry

California Naturopathic Doctors Association
California Optometric Association
California State Board of Optometry
Medical Board of California
National Board of Examiners in Optometry
Naturopathic Medicine Committee
Osteopathic Physicians and Surgeons of California
SEIU
Western University of Health Sciences

ARGUMENTS IN SUPPORT : SEIU writes, "The affected pulmonary technicians at the Los Angeles County + University of Southern California Healthcare Network and Harbor-University of California Los Angeles Medical Center average 25 years' worth of experience in pulmonary function testing at the two largest public hospitals in Southern California. These professionals are an integral part of the care team. According to the Los Angeles County Department of Health, this group began their careers in pulmonary function testing prior to the California Respiratory Care Board's requirement for licensure, and worked for decades before DHS determined that the affected employees ere technically practicing without appropriate licensure. Despite their years of service and contributions to the delivery of health care, they have been temporarily reassigned to different roles pending resolution of the matter. SB 305 would narrowly apply to this cohort and remedy this oversight by providing that they can resume their work in pulmonary function testing. Failure to do so would adversely impact the quality of access of patients."

The California Naturopathic Doctors Association notes, "Licensure and regulation of the California naturopathic doctor profession by the Naturopathic Medicine Committee provides the citizens of California safe access to well-trained primary care providers that specialize in cost-saving, effective, natural medicine focused healthcare."

The Osteopathic Physicians and Surgeons of California states, "With more than 6500 osteopathic physicians currently licensed by the State of California, and growing by approximately 10% annually, it is appropriate for the OMBC to continue serving in

CONTINUED

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its role of consumer protection."

The Association of Regulatory Boards of Optometry writes, "The health and safety of Californians will be well served by SB 305. The vision care services provided by doctors of optometry both

expand the range of options and increase access to vision care services for all Californians. Optometrists have the education, training and skills required for vision care within the legislatively specified scope of practice. SB 305 will reduce costs for Californians and increase both the quantity and quality of their health care."

ASSEMBLY FLOOR : 75-0, 9/9/13

AYES: Achadjian, Alejo, Allen, Ammiano, Atkins, Bigelow, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Dahle, Daly, Dickinson, Eggman, Fong, Fox, Frazier, Beth Gaines, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gray, Grove, Hagman, Hall, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Melendez, Mitchell, Morrell, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Pan, Patterson, Perea, V. Manuel Pérez, Quirk, Quirk-Silva, Rendon, Salas, Skinner, Stone, Ting,

Wagner, Waldron, Weber, Wieckowski, Wilk, Williams, Yamada, John A. Pérez

NO VOTE RECORDED: Donnelly, Gorell, Mansoor, Vacancy, Vacancy

MW:k 9/9/13 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

Assembly Bill No. 1000

Passed the Assembly September 11, 2013

Chief Clerk of the Assembly

Passed the Senate September 10, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock _____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 2406 and 2660 of, and to add Sections 2406.5 and 2620.1 to, the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1000, Wieckowski. Physical therapists: direct access to services: professional corporations.

Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act makes it a crime to violate any of its provisions. The act authorizes the board to suspend, revoke, or impose probationary conditions on a license, certificate, or approval issued under the act for unprofessional conduct, as specified.

This bill would specify that patients may access physical therapy treatment directly and would, in those circumstances, require a physical therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice or if the patient is not progressing, to disclose to the patient any financial interest he or she has in treating the patient, and, with the patient's written authorization, to notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient who initiated services directly for the lesser of more than 45 calendar days or 12 visits, except as specified, and would prohibit a physical therapist from performing services on that patient before obtaining the patient's signature on a specified notice regarding these limitations on treatment. The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under certain existing law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act authorizes specified healing arts practitioners to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares. Existing law also defines a medical corporation or podiatry corporation that is authorized to render professional services as long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians, psychologists, registered nurses, optometrists, podiatrists or, in the case of a medical corporation only, physician assistants, are in compliance with the act.

This bill would specify that those provisions do not limit employment by a professional corporation of only those specified licensed professionals. The bill would authorize any person duly licensed under the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to be employed to render professional services by a professional corporation. The bill would expressly add physical therapists and occupational therapists to the list of healing arts professionals who may be professional employees of a medical corporation or podiatry corporation, and would add licensed physical therapists to the list of healing arts practitioners who may be shareholders, officers, or directors of a medical corporation or a podiatric medical corporation. The bill would also provide that specified healing arts licensees may be shareholders, officers, directors, or professional employees of a physical therapy corporation. The bill would also require a practitioner, except as specified, who refers a patient to a physical therapist who is employed by a professional corporation to make a specified disclosure to the patient.

This bill would incorporate additional changes to Section 2660 of the Business and Professions Code proposed by SB 198 that would become operative if this bill and SB 198 are enacted and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. The Legislature finds and declares that an individual's access to early intervention to physical therapy treatment may decrease the duration of a disability, reduce pain, and lead to a quicker recovery.

SEC. 2. Section 2406 of the Business and Professions Code is amended to read:

2406. A medical corporation or podiatry corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physicians and surgeons, psychologists, registered nurses, optometrists, podiatrists, chiropractors, acupuncturists, naturopathic doctors, physical therapists, occupational therapists, or, in the case of a medical corporation only, physician assistants, marriage and family therapists, clinical counselors, or clinical social workers, are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a medical corporation or podiatry corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the board.

SEC. 3. Section 2406.5 is added to the Business and Professions Code, to read:

2406.5. (a) When a physician and surgeon, podiatrist, or other referring practitioner refers a patient to receive services by a physical therapist employed by a professional corporation as defined in Section 13401 of the Corporations Code, the referring practitioner shall comply with Article 6 (commencing with Section 650) of Chapter 1, and shall provide notice of the following to the patient, orally and in writing, in at least 14-point type and signed by the patient:

(1) That the patient may seek physical therapy treatment services from a physical therapy provider of his or her choice who may not necessarily be employed by the medical or podiatry corporation.

(2) If the patient chooses to be treated by an employed physical therapist, any financial interest the referring practitioner has in the corporation.

(b) This section shall not apply to a physician and surgeon, podiatrist, or other referring practitioner who is in a medical group with which a health care service plan, that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and is also exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, exclusively contracts to provide professional medical services for its enrollees.

SEC. 4. Section 2620.1 is added to the Business and Professions Code, to read:

2620.1. (a) In addition to receiving those services authorized by Section 2620, a person may initiate physical therapy treatment directly from a licensed physical therapist if the treatment is within the scope of practice of physical therapists, as defined in Section 2620, and all of the following conditions are met:

(1) If, at any time, the physical therapist has reason to believe that the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a physical therapist or the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement, the physical therapist shall refer the patient to a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California or to a person licensed to practice dentistry, podiatric medicine, or chiropractic.

(2) The physical therapist shall comply with Section 2633, and shall disclose to the patient any financial interest he or she has in treating the patient and, if working in a physical therapy corporation, shall comply with Article 6 (commencing with Section 650) of Chapter 1.

(3) With the patient's written authorization, the physical therapist shall notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient.

(4) The physical therapist shall not continue treating the patient beyond 45 calendar days or 12 visits, whichever occurs first, without receiving, from a person holding a physician and surgeon’s certificate from the Medical Board of California or the Osteopathic Medical Board of California or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice, a dated signature on the physical therapist’s plan of care indicating approval of the physical therapist’s plan of care. Approval of the physical therapist’s plan of care shall include an in-person patient examination and evaluation of the patient’s condition and, if indicated, testing by the physician and surgeon or podiatrist.

(b) The conditions in paragraph (4) of subdivision (a) do not apply to a physical therapist when he or she is only providing wellness physical therapy services to a patient as described in subdivision (a) of Section 2620.

(c) (1) This section does not expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(2) This section does not restrict or alter the scope of practice of any other health care professional.

(d) Nothing in this section shall be construed to require a health care service plan, insurer, workers’ compensation insurance plan, employer, or state program to provide coverage for direct access to treatment by a physical therapist.

(e) When a person initiates physical therapy treatment services directly, pursuant to this section, the physical therapist shall not perform physical therapy treatment services without first providing the following notice to the patient, orally and in writing, in at least 14-point type and signed by the patient:

“Direct Physical Therapy Treatment Services

You are receiving direct physical therapy treatment services from an individual who is a physical therapist licensed by the Physical Therapy Board of California.

Under California law, you may continue to receive direct physical therapy treatment services for a period of up to 45 calendar days or 12 visits, whichever occurs first, after which time a physical therapist may continue providing you with physical therapy

treatment services only after receiving, from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California, or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care and that an in-person patient examination and evaluation was conducted by the physician and surgeon or podiatrist.

Patient's Signature/Date"

SEC. 5. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (e) Habitual intemperance.
- (f) Addiction to the excessive use of any habit-forming drug.
- (g) Gross negligence in his or her practice as a physical therapist or physical therapist assistant.
- (h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.
- (i) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(j) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(l) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(m) The commission of verbal abuse or sexual harassment.

(n) Failure to comply with the provisions of Section 2620.1.

SEC. 5.5. Section 2660 of the Business and Professions Code is amended to read:

2660. Unprofessional conduct constitutes grounds for citation, discipline, denial of a license, or issuance of a probationary license. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), issue a citation, impose discipline, deny a license, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license issued under this chapter for

unprofessional conduct that includes, in addition to other provisions of this chapter, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter, any regulations duly adopted under this chapter, or the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

(b) Advertising in violation of Section 17500.

(c) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(d) Practicing or offering to practice beyond the scope of practice of physical therapy.

(e) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(f) Unlawful possession or use of, or conviction of a criminal offense involving, a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9, as follows:

(1) Obtaining or possessing in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administering to himself or herself, or furnishing or administering to another, any controlled substances or any dangerous drug.

(2) Using any controlled substance or any dangerous drug.

(3) Conviction of a criminal offense involving the consumption or self-administration of, or the possession of, or falsification of a record pertaining to, any controlled substance or any dangerous drug, in which event the record of the conviction is conclusive evidence thereof.

(g) Failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(h) Gross negligence or repeated acts of negligence in practice or in the delivery of physical therapy care.

(i) Aiding or abetting any person to engage in the unlawful practice of physical therapy.

(j) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

(l) The commission of verbal abuse or sexual harassment.

(m) Engaging in sexual misconduct or violating Section 726.

(n) Permitting a physical therapist assistant or physical therapy aide under one's supervision or control to perform, or permitting the physical therapist assistant or physical therapy aide to hold himself or herself out as competent to perform, professional services beyond the level of education, training, and experience of the physical therapist assistant or aide.

(o) The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice physical therapy issued by that state, or the revocation, suspension, or restriction of the authority to practice physical therapy by any agency of the federal government.

(p) Viewing a completely or partially disrobed patient in the course of treatment if the viewing is not necessary to patient evaluation or treatment under current standards.

(q) Engaging in any act in violation of Section 650, 651, or 654.2.

(r) Charging a fee for services not performed.

(s) Misrepresenting documentation of patient care or deliberate falsifying of patient records.

(t) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients.

(u) The willful, unauthorized violation of professional confidence.

(v) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a patient in confidence during the course of treatment and all information about the patient that is obtained from tests or other means.

(w) Habitual intemperance.

(x) Failure to comply with the provisions of Section 2620.1.

SEC. 6. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. This section does not limit employment by a professional corporation designated in this section of only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

(a) Medical corporation.

(1) Licensed doctors of podiatric medicine.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed physician assistants.

(8) Licensed chiropractors.

- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (12) Licensed physical therapists.
- (b) Podiatric medical corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed physical therapists.
- (c) Psychological corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed chiropractors.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (d) Speech-language pathology corporation.
- (1) Licensed audiologists.
- (e) Audiology corporation.
- (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.

- (g) Marriage and family therapist corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Licensed clinical social workers.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
 - (8) Licensed professional clinical counselors.
- (h) Licensed clinical social worker corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Licensed marriage and family therapists.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
 - (8) Licensed professional clinical counselors.
- (i) Physician assistants corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Registered nurses.
 - (3) Licensed acupuncturists.
 - (4) Naturopathic doctors.
- (j) Optometric corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
- (k) Chiropractic corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed optometrists.
 - (6) Licensed marriage and family therapists.
 - (7) Licensed clinical social workers.
 - (8) Licensed acupuncturists.

- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (l) Acupuncture corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed physician assistants.
- (9) Licensed chiropractors.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (m) Naturopathic doctor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed physician assistants.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Licensed physical therapists.
- (8) Licensed doctors of podiatric medicine.
- (9) Licensed marriage and family therapists.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (12) Licensed professional clinical counselors.
- (n) Dental corporation.
- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
- (3) Registered dental assistants.
- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.
- (7) Registered dental hygienists in alternative practice.
- (o) Professional clinical counselor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Licensed marriage and family therapists.

- (5) Registered nurses.
- (6) Licensed chiropractors.
- (7) Licensed acupuncturists.
- (8) Naturopathic doctors.
- (p) Physical therapy corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed acupuncturists.
- (4) Naturopathic doctors.
- (5) Licensed occupational therapists.
- (6) Licensed speech-language therapists.
- (7) Licensed audiologists.
- (8) Registered nurses.
- (9) Licensed psychologists.
- (10) Licensed physician assistants.

SEC. 7. Section 5.5 of this bill incorporates amendments to Section 2660 of the Business and Professions Code proposed by both this bill and Senate Bill 198. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 2660 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 198, in which case Section 5 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor

CONCURRENCE IN SENATE AMENDMENTS
AB 1000 (Wieckowski and Maienschein)
As Amended September 6, 2013
Majority vote

ASSEMBLY:	77-0	(May 29, 2013)	SENATE:	33-0	(September 10, 2013)
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Original Committee Reference: B., P. & C.P.

SUMMARY : Allows patients to access physical therapy services without a referral for 45 calendar days or 12 visits, whichever comes first, after which the patient must receive an in-person examination from a physician and surgeon or podiatrist, who must also sign off on the physical therapist's plan of care; expands the types of licensed professionals permitted to work for a professional corporation; and permits a licensed physical therapist (PT) to be a shareholder, officer, or director of a medical and podiatric professional corporation, as specified. Specifically, this bill :

- 1) Requires a physician and surgeon, podiatrist, or other referring practitioner who refers a patient to receive services from a PT employed by a professional corporation to comply with existing law regarding financial arrangements for referrals, and requires the referring practitioner to provide notice to the patient, orally and in writing, in a least 14-point type and signed by the patient, of the following:
 - a) That the patient may seek physical therapy treatment services from a PT of his or her choice who may not necessarily be employed by the medical or podiatry corporation; and,
 - b) If the patient chooses to be treated by an employed PT, the financial interest, if any, the referring practitioner has in the corporation.
- 2) States that the provision requiring the referring practitioner to provide notice that the patient may go to the PT of his or her choice, and to notify the patient of any financial interest the referring provider has in the medical corporation, shall not apply to a physician and surgeon,

podiatrist, or other referring practitioner who is in a medical group with which a licensed non-profit health care service plan exclusively contracts to provide professional medical services.

- 3) Permits a person to initiate physical therapy treatment directly from a licensed PT if the treatment is within the PT's scope of practice and all of the following conditions are met:
 - a) If, at any time, the PT has reason to believe that the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a PT, or the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable or functional improvement, the PT shall refer the patient to a physician and surgeon, dentist, podiatrist, or chiropractor, as appropriate;
 - b) The PT shall comply with laws relating to his or her title, as specified, and shall disclose to the patient any financial interest he or she has in treating the patient and, if working in a physical therapy corporation, shall comply with existing law regarding financial arrangements for referrals, as specified;
 - c) With the patient's written authorization, the PT shall notify the patient's physician and surgeon, if any, that the PT is treating the patient; and,
 - d) The PT shall not continue treating the patient beyond 45 calendar days or 12 visits, whichever occurs first, without receiving, from a physician and surgeon or a podiatrist, and acting within his or her scope of practice, a dated signature on the PT's plan of care indicating approval. Approval of the PT's plan of care shall include an in-person patient examination and evaluation of the patient's condition and, if indicated, testing by the physician and surgeon or podiatrist.
- 4) States that the 45 calendar day or 12 visit conditions do not apply to a PT when he or she is only providing wellness physical therapy services to a patient, as specified.
- 5) Clarifies that this bill does not restrict or alter the scope

of practice of any other health care professional.

- 6) Clarifies that this bill does not expand or modify the scope of practice for PTs, including the prohibition on a physical therapist diagnosing a disease.
- 7) States that the provisions of this bill shall not be construed to require a health care service plan, insurer, workers' compensation insurance plan, employer, or state program to provide coverage for direct access to treatment by a PT.
- 8) Requires a PT to provide notice orally and in writing, in at least 14-point type and signed by the patient, to a person initiating physical therapy treatment services directly but before providing those services, as specified.
- 9) States that violation of these provisions constitutes unprofessional conduct.
- 10) States that existing law which provides for the types of licensees a professional corporation may employ as shareholders, officers, directors, or a professional employee, as specified, does not limit employment by a professional corporation to only those professions specifically designated.
- 11) Permits any person licensed as a healing arts professional under the Business and Professions Code (BPC), the Chiropractic Act, or the Osteopathic Act to be employed to render professional services by a professional corporation, as specified.
- 12) Permits a licensed PT to be a shareholder, officer, or director of a medical and podiatric professional corporation, as specified.
- 13) Makes technical and conforming changes.
- 14) Makes legislative findings and declarations.
- 15) Adds language to avoid chaptering issues with SB 198 (Lieu).

The Senate amendments :

- 1) Clarify that the provision requiring the referring

practitioner to provide notice that the patient may go to the PT of his or her choice, and to notify the patient of any financial interest the referring provider has in the medical corporation shall not apply to a physician and surgeon, podiatrist, or other referring practitioner who is in a medical group with which a licensed non-profit health care service plan exclusively contracts to provide medical services.

- 2) Clarify that the bill does not restrict or alter the scope of practice of any other health care professional.
- 3) Expand the list of entities that are not required, by the terms of this bill, to provide coverage for direct access to treatment by a physical therapist to include a workers' compensation insurance plan, employers, and state programs.
- 4) Make technical and clarifying changes.
- 5) Add language to avoid chaptering issues with SB 198 (Lieu).

FISCAL EFFECT : According to the Senate Appropriations Committee:

- 1) Minor costs to update existing regulations by the Physical Therapy Board (Physical Therapy Fund). The Physical Therapy Board indicates that it will need to make minor updates to existing regulations, which can be performed as part of ongoing updates to existing regulations at minor additional cost.
- 2) No additional costs to Medi-Cal, CalPERS health plans, or state employers (various funds). The bill specifically provides that "direct access" to physical therapy services does not obligate health plans or health insurers to provide coverage for such services. Therefore, the bill will not require Medi-Cal managed care plans or CalPERS health plans to pay for such services. In addition, regulations governing Medi-Cal fee for service require enrollees to gain prior authorization for physical therapy services, which must also be prescribed by a licensed health care practitioner.

COMMENTS :

- 1) Purpose of this bill . This bill would allow consumers to have

direct access without physician referral to a PT for treatment for up to 45 calendar days or 12 visits, whichever comes first. It also authorizes the creation of a professional physical therapy corporation, and generally permits any healing arts licensee to be a shareholder, officer, director, or professional employee of an authorized professional corporation. AB 1000 aims to represent the reconciled interests of certain physician, orthopedic physician, and physical therapist groups as they relate to direct access to physical therapy and employment in professional corporations. This bill is sponsored by the California Physical Therapy Association.

2) Access to physical therapy in California . Under current law, a PT may work with a patient directly to "promote and maintain physical fitness," but a PT must have a doctor's diagnosis and referral to "perform tissue penetration for the purpose of evaluating neuromuscular performance," on a patient, which is essentially the heart of physical therapy practice. This interpretation of law is based on a 1965 Attorney General Opinion.

MediCal covers physical therapy services but requires that a patient be under the care of a physician. MediCal also requires that the services be furnished pursuant to a plan of care, and that the plan be certified and recertified periodically by a physician (usually every 30 days).

According to the Federation of State Physical Therapy Boards (FSPTB), there are 17 jurisdictions that have unlimited direct access to physical therapy, 30 jurisdictions with limited direct access and 6 jurisdictions that have no direct access. This bill would make California a limited direct access state, allowing patients to visit a PT for 45 days or 12 visits, whichever comes first, before requiring an in-person examination by a physician. The rationale for limited direct access is that any condition serious enough that it cannot be resolved within 45 days or 12 visits warrants examination and possible diagnosis by a physician to rule out more serious problems.

3) Professional corporations . A professional corporation is an organization made up primarily of individuals of the same trade or profession. The Moscone-Knox Professional Corporations Act of 1968 authorized the formation of

professional corporations to obtain certain benefits of the corporate form of doing business, such as limited legal liability. Current law specifies which healing arts licensees may be shareholders, officers, directors or professional employees of professional corporations controlled by a differing profession so long as the sum of all shares owned by those differently licensed persons does not exceed 49% of the total number of shares of the professional corporation.

This bill would also authorize the creation of a PT corporation, allow any person licensed under BPC, the Chiropractic Act, or the Osteopathic Act to be employed to render professional services under the 16 authorized types of professional corporations, and permit a PT to be a shareholder, officer, or director of a medical or podiatric professional corporation.

Analysis Prepared by : Sarah Huchel / B.,P. & C.P. / (916)
319-3301

FN:
0002730

AMENDED IN SENATE JUNE 24, 2013
AMENDED IN ASSEMBLY MAY 24, 2013
AMENDED IN ASSEMBLY APRIL 22, 2013
AMENDED IN ASSEMBLY APRIL 1, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 186

Introduced by Assembly Member Maienschein
(Principal coauthor: Assembly Member Hagman)
(Coauthors: Assembly Members Chávez, Dahle, Donnelly,
Beth Gaines, Garcia, Grove, Harkey, Olsen, and Patterson, and
V. Manuel Pérez)
(Coauthors: Senators Fuller and Huff)

January 28, 2013

An act to ~~amend~~ *add* Section ~~115.5~~ of *115.6* to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 186, as amended, Maienschein. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires that the licensing fees imposed by certain boards within the department be deposited in funds that are continuously

appropriated. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would, in addition to the expedited licensure provisions described above, establish a temporary licensure process for an applicant who holds a current license in another jurisdiction, as specified, and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first.

~~This bill would require a board within the department to issue a temporary license to an applicant who qualifies for, and requests, expedited licensure pursuant to the above-described provision if he or she meets specified requirements, except as provided. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first. The bill would authorize a board to conduct an investigation of an applicant for purposes of denying or revoking a temporary license, and would authorize a criminal background check as part of that investigation. The~~

This bill would require an applicant seeking a temporary license to submit an application to the board that includes a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, as specified. The bill would also require the application to include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing. The bill would authorize a board to conduct an investigation of an applicant for purposes of denying or revoking a temporary license and would authorize a criminal background check as part of that investigation. The bill would require an applicant, upon request by a board, to furnish a full set of fingerprints for purposes of conducting the criminal background check.

This bill would prohibit a temporary license from being provided to any applicant who has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license at the time the act was committed. The bill would provide that a violation of the above-described provision may be grounds for the denial or revocation of a temporary license. The bill would further prohibit a temporary license from being provided to any applicant who has been disciplined by a licensing entity in another jurisdiction, or is the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. ~~The bill would require an applicant, upon request by a board, to furnish a full set of fingerprints for purposes of conducting a criminal background check.~~

This bill would authorize the immediate termination of any temporary license to practice medicine upon a finding that the temporary licenseholder failed to meet any of the requirements described above or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure. The bill would, upon termination of the license, require the board to issue a notice of termination requiring the temporary licenseholder to immediately cease the practice of medicine upon receipt.

This bill would exclude from these provisions a board that has established a temporary licensing process before January 1, 2014.

Because the bill would authorize the expenditure of continuously appropriated funds for a new purpose, the bill would make an appropriation.

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

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

- 1 *SECTION 1. Section 115.6 is added to the Business and*
- 2 *Professions Code, to read:*
- 3 *115.6. (a) A board within the department shall, after*
- 4 *appropriate investigation, issue a temporary license to an applicant*
- 5 *if he or she meets the requirements set forth in subdivision (c). The*
- 6 *temporary license shall expire 12 months after issuance, upon*
- 7 *issuance of an expedited license pursuant to Section 115.5, or upon*
- 8 *denial of the application for expedited licensure by the board,*
- 9 *whichever occurs first.*

1 **(b)** *The board may conduct an investigation of an applicant for*
2 *purposes of denying or revoking a temporary license issued*
3 *pursuant to this section. This investigation may include a criminal*
4 *background check.*

5 **(c)** *An applicant seeking a temporary license pursuant to this*
6 *section shall meet the following requirements:*

7 **(1)** *The applicant shall supply evidence satisfactory to the board*
8 *that the applicant is married to, or in a domestic partnership or*
9 *other legal union with, an active duty member of the Armed Forces*
10 *of the United States who is assigned to a duty station in this state*
11 *under official active duty military orders.*

12 **(2)** *The applicant shall hold a current license in another state,*
13 *district, or territory of the United States in the profession or*
14 *vocation for which he or she seeks a temporary license from the*
15 *board.*

16 **(3)** *The applicant shall submit an application to the board that*
17 *shall include a signed affidavit attesting to the fact that he or she*
18 *meets all of the requirements for the temporary license and that*
19 *the information submitted in the application is accurate, to the*
20 *best of his or her knowledge. The application shall also include*
21 *written verification from the applicant's original licensing*
22 *jurisdiction stating that the applicant's license is in good standing*
23 *in that jurisdiction.*

24 **(4)** *The applicant shall not have committed an act in any*
25 *jurisdiction that would have constituted grounds for denial,*
26 *suspension, or revocation of the license under this code at the time*
27 *the act was committed. A violation of this paragraph may be*
28 *grounds for the denial or revocation of a temporary license issued*
29 *by the board.*

30 **(5)** *The applicant shall not have been disciplined by a licensing*
31 *entity in another jurisdiction and shall not be the subject of an*
32 *unresolved complaint, review procedure, or disciplinary*
33 *proceeding conducted by a licensing entity in another jurisdiction.*

34 **(6)** *The applicant shall, upon request by a board, furnish a full*
35 *set of fingerprints for purposes of conducting a criminal*
36 *background check.*

37 **(d)** *A board may adopt regulations necessary to administer this*
38 *section.*

39 **(e)** *A temporary license issued pursuant to this section for the*
40 *practice of medicine may be immediately terminated upon a finding*

1 that the temporary licenseholder failed to meet any of the
2 requirements described in subdivision (c) or provided substantively
3 inaccurate information that would affect his or her eligibility for
4 temporary licensure. Upon termination of the temporary license,
5 the board shall issue a notice of termination that shall require the
6 temporary licenseholder to immediately cease the practice of
7 medicine upon receipt.

8 (f) This section shall not apply to a board that has established
9 a temporary licensing process before January 1, 2014.

10 SECTION 1. ~~Section 115.5 of the Business and Professions~~
11 ~~Code is amended to read:~~

12 ~~115.5. (a) Except as provided in subdivision (d), a board within~~
13 ~~the department shall expedite the licensure process for an applicant~~
14 ~~who meets both of the following requirements:~~

15 ~~(1) Supplies evidence satisfactory to the board that the applicant~~
16 ~~is married to, or in a domestic partnership or other legal union~~
17 ~~with, an active-duty member of the Armed Forces of the United~~
18 ~~States who is assigned to a duty station in this state under official~~
19 ~~active-duty military orders.~~

20 ~~(2) Holds a current license in another state, district, or territory~~
21 ~~of the United States in the profession or vocation for which he or~~
22 ~~she seeks a license from the board.~~

23 ~~(b) (1) A board shall, after appropriate investigation, issue a~~
24 ~~temporary license to an applicant who is eligible for, and requests,~~
25 ~~expedited licensure pursuant to subdivision (a) if the applicant~~
26 ~~meets the requirements described in paragraph (3). The temporary~~
27 ~~license shall expire 12 months after issuance, upon issuance of the~~
28 ~~expedited license, or upon denial of the application for expedited~~
29 ~~licensure by the board, whichever occurs first.~~

30 ~~(2) The board may conduct an investigation of an applicant for~~
31 ~~purposes of denying or revoking a temporary license issued~~
32 ~~pursuant to this subdivision. This investigation may include a~~
33 ~~criminal background check.~~

34 ~~(3) (A) An applicant seeking a temporary license issued~~
35 ~~pursuant to this subdivision shall submit an application to the board~~
36 ~~which shall include a signed affidavit attesting to the fact that he~~
37 ~~or she meets all of the requirements for the temporary license and~~
38 ~~that the information submitted in the application is accurate, to the~~
39 ~~best of his or her knowledge. The application shall also include~~
40 ~~written verification from the applicant's original licensing~~

- 1 jurisdiction stating that the applicant's license is in good standing
2 in that jurisdiction.
- 3 ~~(B) The applicant shall not have committed an act in any~~
4 ~~jurisdiction that would have constituted grounds for denial,~~
5 ~~suspension, or revocation of the license under this code at the time~~
6 ~~the act was committed. A violation of this subparagraph may be~~
7 ~~grounds for the denial or revocation of a temporary license issued~~
8 ~~by the board.~~
- 9 ~~(C) The applicant shall not have been disciplined by a licensing~~
10 ~~entity in another jurisdiction and shall not be the subject of an~~
11 ~~unresolved complaint, review procedure, or disciplinary proceeding~~
12 ~~conducted by a licensing entity in another jurisdiction.~~
- 13 ~~(D) The applicant shall, upon request by a board, furnish a full~~
14 ~~set of fingerprints for purposes of conducting a criminal~~
15 ~~background check.~~
- 16 ~~(e)~~
- 17 ~~A board may adopt regulations necessary to administer this~~
18 ~~section.~~
- 19 ~~(d) This section shall not apply to a board that has established~~
20 ~~a temporary licensing process before January 1, 2014.~~

BILL ANALYSIS

| Hearing Date: July 1, 2013 | Bill No: AB
| |
| | 186

SENATE COMMITTEE ON BUSINESS, PROFESSIONS
AND ECONOMIC DEVELOPMENT
Senator Ted W. Lieu, Chair

Bill No: AB 186 Author: Maienschein
As Amended: June 24, 2013 Fiscal: Yes

SUBJECT: Professions and vocations: military spouses: temporary licenses.

SUMMARY: Requires all licensing entities under the Department of Consumer Affairs (DCA) to provide military spouses and domestic partners, who hold a valid professional license in another state, an 18 month provisional license to practice in California.

Existing law:

- 1) Provides for the licensure and regulation of various professions and vocations by boards within the DCA.
- 2) Defines "license" as a license, certificate, registration or other means to engage in a business or profession regulated by the Business and Professions Code (BPC). (BPC § 23.7)
- 3) Defines "board" as a board, bureau, commission, committee, department, division, examining committee, program or agency within the DCA. (BPC § 22)
- 4) Defines "military service" as federal service after October 1, 1940, where a military member is on active duty with any branch of service as well as training or education under the supervision of the United States preliminary to induction into the military service.
(BPC § 10460 (c))
- 5) Defines "active service" or "active duty" as the period during which a person in military service is absent from duty on account

of sickness, wounds, leave, or other lawful cause.
(BPC § 10460 (c))

6) Specifies that a board within DCA shall expedite the licensure process for an applicant who meets both of the following requirements: (BPC § 155.5)

a) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

b) Holds a current license in another state, district, or territory of the United States in the profession or vocation

for

which he or she seeks a license from the board.

This bill:

1) Requires the boards within DCA to issue a 12-month temporary license to an applicant who is a military spouse or domestic partner while the license application is being processed, if:

a) The applicant supplies satisfactory evidence that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders;

b) The applicant holds a current license in another state, district or territory of the United States in the profession or vocation for which he or she seeks a license from the board;

c) The applicant submits an affidavit attesting that the information submitted in the application is accurate;

d) The applicant submits written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing;

e) The applicant, upon the board's request, submits fingerprints for a background check;

f) The applicant has not committed any act in any jurisdiction

that constitutes grounds for the denial, suspension, or revocation of the professional license by the board under the

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Business and Professions Code (BPC) at the time the act was committed; and,

g) The applicant was not disciplined by a licensing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

- 2) Specifies that a board within DCA may adopt necessary regulations to enact this legislation.
- 3) Indicates that any temporary license for the practice of medicine may be immediately terminated if it is found that the individual violated any requirements or provided inaccurate information that would affect their eligibility for licensure.
- 4) Permits the boards within DCA to issue a notice to cease the practice of medicine immediately upon receipt of the notification of the termination of the temporary license.
- 5) Specifies that the provisions of the bill shall not apply to a board within DCA that has established a temporary licensing process before January 1, 2014.

FISCAL EFFECT: According to the Assembly Appropriations Committee analysis dated April 22, 2013, if the BreEZe system is fully implemented prior to the completion of the regulations for the new provisional license type, the cost to DCA would be under \$100,000. However if there are delays in the implementation of BreEZe, one-time costs to DCA would be approximately \$500,000.

COMMENTS:

1. Purpose. This bill is sponsored by the Author. According to the Author, "The wait time for expedited licenses can be very long, and spouses can't even begin seeking employment until their license has been approved. A December article in USAA Magazine described the process as taking many months even after all appropriate

documentation has been submitted, fees being paid, and tests taken to receive the license. The unemployment rate amongst military spouses is estimated to be about 26% which is three times the national average."

2. Background. According to a 2005 study conducted by the RAND

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National Defense Research Institute, the majority of military spouses are less likely to be employed, more likely to be seeking work and earn less than comparable civilian spouses. Military spouses versus civilian spouses are more likely to live in metropolitan areas. Moreover, they are more likely to have graduated from high school and to have some college education. These facts would ostensibly increase their employability. However, due to "military lifestyle" which includes frequent moves, deployments and long hours that keep service members from assisting with parenting, employment opportunities for spouses are negatively impacted.

Current data suggests:

68% of married military members report that their spouse's ability to maintain a career impacts their decision to remain in the military.

67% of military spouses report that they want or need to work.

The annual percent of the military spouse population that moves across state lines is 14.5%, compared to 11% for civilian spouses.

As much as 34% of military spouses in the labor force are required to be fully licensed.

19% of employed spouses experience challenges maintaining their licenses.

1. United States Department of Defense (DOD) and Department of the Treasury (DOT) Report. On January 24, 2011, United States President Barack Obama presented Strengthening Our Military Families: Meeting America's Commitment, a document urging agencies

to support and improve the lives of military families.

As a result of the President's directive, the United States DOT and the United States DOD issued a joint report to highlight the impact of state occupational licensing requirements on the careers of military spouses, who frequently move across state lines. Released in February 2012, the report, Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines revealed that approximately 35% of military spouses work in professions that require state licenses or certification and that another military spouses are ten times more likely to have moved to

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state in the last year compared to their civilian counterparts.

The report also listed jobs military spouses commonly accepted and revealed how licensing requirements impacted employment opportunities: "Teaching is the most common occupation among military spouses, followed by child care services, and nursing. While many of the common occupations among military spouses are not licensed, some of the most popular professions, including teaching and nursing, do require licensure. In a 2008 Defense Manpower Data Center survey of active duty military spouses, participants were asked what would have helped them with their employment search after their last military move. Nearly 40% of those respondents who have moved indicated that 'easier state-to-state transfer of certification' would have helped them."

As a result of the survey, the United States DOT and DOD issued several recommendations, including the authorization of temporary licenses for military spouses if the applicant met state requirements. The report's recommendation specified: "Temporary licenses allow applicants to be employed while they fulfill all of the requirements for a permanent license, including examinations or endorsement, applications and additional fees. In developing expedited approaches that save military spouses time and money, DOD does not want to make licensure easier for military spouses to achieve at the expense of degrading their perceived value in their profession."

2. Military Spouses Employment Partnership. On June 29, 2011, the Military Spouse Employment Partnership (MSEP) was launched at the Chamber of Commerce in Washington, D.C. The MSEP program is an expansion of the Army Spouse Employment Partnership program and is focused on helping military spouses from all branches of the military attain financial security and achieve educational and employment goals.

Through a website, the MSEP creates a gateway for military spouses and corporate and non-profit organizations to interact. The MSEP has been the latest development in an effort backed by President Barack Obama's administration to do more to help military families. In May of 2012, 34 companies joined the MSEP and pledged to recruit, hire, promote and retain military spouses in portable careers.

3. Expedited Licensure for Military Spouses. In 2012, AB 1904 (Block, Chapter 399, Statutes of 2012) was passed. This bill required all licensing entities under the DCA to issue an expedited license to the spouse or domestic partner of a military member on active duty,

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beginning January 1, 2013. To date, there is no available data on how many expedited licenses have been granted by the DCA licensing entities to military spouses or domestic partners.

4. Arguments in Support. The American Legion-Department of California , AMVETS- Department of California , California State Commanders Veterans Council , VFW- Department of California and Vietnam Veterans of America- California State Council wrote a joint letter of support for the bill. In it they indicate, "We support this bill because it will help qualified military spouses to be employed in their licensed field of expertise quickly under a provisional license rather than having to wait to get a job until they get through the process of obtaining a California license if they already are licensed in another state."

Brigadier General Vincent A. Coglianesse writes, "The White House Joining Forces initiative has called attention to the barriers currently preventing military spouses from maintaining employment on a normal progression path regardless of relocation."

Consequently, the majority of military spouses are less likely to be employed, more likely to be seeking work and earn less than comparable civilian spouses, despite possessing more education and employable skills than the average population. One often-faced barrier is the lack of broad-based reciprocity among the states

for

recognizing professional licenses or certificates held by military spouses. This bill, by requiring boards to issue a temporary license to the spouse of a service member, would help address this barrier."

writes, The Commander, Navy Region Southwest supports the bill and

"On behalf of Navy installations in California, I am writing in support of AB 186. The ability of a military spouse to continue their professional life is an important part of maintaining households during periods of long deployments, and is especially needed for military families based in higher cost urban areas such as southern California."

The National Military Family Association, the California Association for Health Services at Home and the San Diego

Military

Advisory Council also support the bill. They believe that the

lack

of broad-based reciprocity among the states to recognize professional licenses or certificates creates a significant

barrier

to employment. With each government ordered move, military

spouses

incur high costs for recertification and delays before they are able to work. They believe that provisional licenses will permit military spouses to become employed quickly, financially

benefiting

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the family and the state of California.

The Department of Defense states, "We appreciate any concern for protecting the public and would not want a spouse to be licensed when they are not qualified or would pose a danger to those they served. The spouses we are referring to in this bill are all licensed in another state. We understand that the reason for licensing is to safeguard the public, and we believe (as several other states believe) that providing a temporary license to a military spouse who is already licensed in another state and who

risk has had experience in that licensed occupation presents little to the public."

5. Support if Amended. The Board of Behavioral Sciences (BBS) submitted a letter reflecting their support if amended position. In it they state, "The BBS supports the intent of this bill to assist spouses of military members to quickly obtain employment. However, the Board respectfully requests three additional amendments in order to ensure consumer protection is upheld:

An amendment to require that the temporary license applicant provide a transcript to the licensing board;

to An amendment requiring the temporary license applicant to pass the Board's California Law and Ethics examination prior to the issuance of the temporary license; and,

An amendment allowing delayed implementation to accommodate DCA's transition to the new BreEZe database system."

if The California Board of Accountancy (CBA) also supports the bill amended. In their letter they write, "The CBA supports the military and their families; however, it would like to request an amendment to clarify that an individual's license must be current, active and unrestricted with the authority to practice the identified profession in the state that issued the individual's license."

supportive The Medical Board of California indicates, "The Board is of this bill if it is amended to include language that would allow for termination of the temporary license if it is found that the individual issued the temporary license violated any requirements in the bill or provided substantive inaccurate information that would affect their eligibility for licensure. The Board has requested this amendment in order to ensure consumer protection

and

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has been working with the author's office to draft language that will address the Board's concerns, which the author's office has agreed to take. Once this language is amended into the bill, the Board will be supportive of AB 186." (Note: The Author has taken

the amendments suggested by the MBC)

1. Oppose Unless Amended. The American Association for Marriage and Family Therapy- California Division opposes the bill unless the following three amendments are taken:

Require either a 12-hour course in California Law and Ethics or successful completion of a state-administered California Law and Ethics exam prior to the issuance of the license;

Require that the licensee provide proof that their license is active and in good standing prior to the issuance of the license; and,

Require that the licensure requirements of the applicant's home state be substantially equivalent to those of California.

The Board for Professional Engineers, Land Surveyors and Geologists opposes the bill unless amended. In their letter they write, "The Board voted to oppose AB 186 unless amended because it would not be able to comply with the proposed law in all cases. Most engineers coming to California with a current license in another state can be issued a California license through comity in a matter of weeks. Civil, Geotechnical and Structural engineers, Land Surveyors and Geologists coming to California must take and pass California exams specific to their discipline before they can be issued a license, which would also include a provisional license. The California examinations cover seismic issues specific to California, consequently, the Board would be negligent if it issued a license to someone who may not be familiar with the terrain, soils, and seismic issues of this State. Fortunately these five disciplines can practice, and therefore work, in California under the responsible charge of another licensee who can review their work and sign and stamp plans, but they cannot be issued a license until they have passed the state specific examination."

The California Architects Board opposes the bill unless amended. They write, "Although the Board unequivocally supports members of our nation's Armed Forces and initiatives that address the challenges facing military families, it cannot waive the California Supplemental Examination requirement (CSE). The CSE is a critical

licensure requirement which all licensees in our state must complete, demonstrating competence in California's seismic, accessibility, energy and legal requirements. The Board cannot waive the CSE requirement and simultaneously meet its mandate to protect the health, safety and welfare of the public."

(BCE) 1. Arguments in Opposition. The Board of Chiropractic Examiners

check opposes the bill. They contend, "The Board fears that issuing a license to applicants prior to completing the full background

and license verification would put the public at risk of potential harm. Affidavits do not ensure that the information included in the application is truthful. Additionally, the mandate to issue temporary licenses in this bill conflicts with the Chiropractic Initiative Act. The Act defines the educational requirements, fees, and conditions under which the BCE may issue a license to practice chiropractic. Lastly, the Act prohibits the BCE from reciprocating licenses with states that do not have similar requirements and do not reciprocate licenses with California. The Act was created through an initiative measure in 1922 and can only be changed through a ballot initiative. Therefore, the BCE is unable to comply with the provisions in this bill."

bill. The Contractors State License Board (CSLB) also opposes the

In their letter they write, "The Board respectfully requests an amendment to provide an exemption from the bill's provisions. . .CSLB supports the goal of assisting military families. However, as required by recent legislation, CSLB expedites applications for military spouses and does not believe its licensing process is so long as to require the need for a temporary license.

Additionally,

as there is no exam requirement for the temporary license, these individuals will have the ability to contract but will not be required to be familiar with California law or building code requirements with which they need to comply. We believe this may put California consumers at risk."

of 2. Policy Issues for Consideration. The goal and spirit of this legislation is to promote expedited licensure for military spouses and domestic partners. As illustrated in the background section

expediting this analysis, the need for this action has been well studied and documented. Further, there is a federal effort to encourage state licensing entities to adopt policies that will assist in

the licensure process for military spouses. In response, the California Legislature passed AB 1904 in 2012. Despite this, AB 186 attempts to promote even more timely expedition of licenses by the DCA licensing entities by granting an immediate provisional license for a military spouse to practice in California.

Despite this measure's laudable efforts, it is equally important to

note that the expediting of licensure should not result in compromised consumer protection or limit the authority of the licensing entities to exercise discretion when issuing licenses. Specifically, as noted in the United States DOT and DOD recommendations, "In developing expedited approaches that

save

military spouses time and money, DOD does not want to make licensure easier for military spouses to achieve at the expense of degrading their perceived value in their profession." Further, this bill raises concerns about the ability of the DCA licensing entities to carry out the bill's mandates. Notably, as indicated in the opposition letters submitted by several licensing boards, this bill raises questions about consumer protection as necessary background checks and verification of California specific coursework, examinations and training requirements would be waived if a provisional license was immediately granted to a military spouse or domestic partner. Lastly, this bill may be premature as there has not been adequate time to study the results of the new expedited licensure requirements that went into effect on January 1, 2013.

SUPPORT AND OPPOSITION:

Support:

American Legion- Department of California
 AMVETS- Department of California
 Brigadier General Vincent A. Coglianese
 California Architects Board
 California Association for Health Services at Home
 California State Commanders Veterans Council
 Commander, Navy Region Southwest
 National Military Family Association
 San Diego Military Advisory Council
 United States Department of Defense
 VFW- Department of California
 Vietnam Veterans of America- California State Council

Support if Amended:

Board of Behavioral Sciences
 California Board of Accountancy

Medical Board of California

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Oppose Unless Amended:

American Association for Marriage and Family Therapy- California
Division
Board for Professional Engineers, Land Surveyors and Geologists
California Architects Board

Oppose:

Board of Chiropractic Examiners
Contractors State License Board

Consultant: Le Ondra Clark, Ph.D.

Senate Bill No. 129

Passed the Senate September 6, 2013

Secretary of the Senate

Passed the Assembly September 4, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock _____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 53112 of the Government Code, and to amend Section 2881 of, and to repeal Section 278.5 of, the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 129, Wright. Deaf and disabled telecommunications program.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to oversee administration of the state's telecommunications universal service programs, including the deaf and disabled programs, which are funded through the Deaf and Disabled Telecommunications Program Administrative Committee Fund. Existing law, until January 1, 2014, requires the commission to establish a surcharge, not to exceed 0.5%, that is uniformly applied to a subscriber's intrastate telephone service charges to allow providers of the equipment and service provided pursuant to the deaf and disabled programs to recover their costs. Existing law, until January 1, 2016, requires the commission to submit a report on the fiscal status of the programs to the Legislature on or before December 31 of each year. Existing law requires the report to include, among other things, an evaluation of options for controlling program expenses and program efficiency, as specified.

This bill would extend imposition of the surcharge until January 1, 2020. The bill would extend the reporting requirements until January 1, 2021, and would require the commission to submit the report to the Legislature on or before March 1 of each year. This bill would also require the report to include an evaluation of any modification to the program that would maximize participation and funding opportunities under similar federal programs. As part of the report that is due no later than March 1, 2014, this bill would require the commission to evaluate options for controlling the program costs of providing speech-generating devices, and include any information on barriers to participation by eligible subscribers.

(2) Existing law requires the commission to design and implement a program to provide access to a speech-generating telecommunications device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. Existing law also requires the commission to expand the deaf and disabled program to include assistance to individuals with speech disabilities, including assistance in purchasing speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment.

This bill would delete the first provision, described above, that requires the commission to expand the program to include assistance to individuals with speech disabilities, including assistance in purchasing speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment.

(3) Existing law states the intent of the Legislature that existing members of the Deaf and Disabled Telecommunications Program Administrative Committee should serve out their current terms of office as members of the committee, but not to exceed July 1, 2003. Existing law requires the committee to develop and submit, not later than October 1, 2002, recommendations to the commission for administration and governance of the deaf and disabled programs, as prescribed.

The bill would repeal these provisions.

(4) Under the Public Utilities Act, a violation of any order, decision, rule, direction, demand, or requirement of the commission by a public utility is a crime.

Because the bill would require an order or decision of the commission to extend the surcharge funding the deaf and disabled programs and because a violation of these requirements would be a crime, the bill would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 53112 of the Government Code is amended to read:

53112. (a) All systems shall be designed to meet the specific requirements of each community and public agency served by the system. Every system, whether basic or sophisticated, shall be designed to have the capability of utilizing at least three of the methods specified in Sections 53103 to 53106, inclusive, in response to emergency calls. The Legislature finds and declares that the most critical aspect of the design of any system is the procedure established for handling a telephone request for emergency services.

(b) In addition, to maximize efficiency and utilization of the system, all pay telephones within each system shall, by December 31, 1985, enable a caller to dial "911" for emergency services, and to reach an operator by dialing "0", without the necessity of inserting a coin. At those "911" public safety answering points serving an area where 5 percent or more of the population, in accordance with the latest United States census information, speak a specific primary language other than English, operators who speak each such other language, in addition to English, shall be on duty or available through interagency telephone conference procedures at all times for "911" emergency services.

(c) In addition, all systems shall require installation of a telecommunications device capable of servicing the needs of the deaf or severely hearing impaired at the "911" public safety answering point or points. The device shall be compatible with devices furnished by telephone corporations pursuant to Section 2881 of the Public Utilities Code.

SEC. 2. Section 278.5 of the Public Utilities Code is repealed.

SEC. 3. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hearing impaired by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as

determined by the commission, and to a subscriber that is an organization representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (h). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification. In addition, a physician assistant may certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hearing impaired to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hearing impaired and offices of organizations representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (h), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hearing impaired. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hearing impaired available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hearing impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for

specialized telecommunications equipment, shall be provided by a licensed optometrist, physician and surgeon, or physician assistant, acting within the scope of practice of his or her license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) (1) The commission shall also design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, or qualified state or federal agency. The commission shall provide to a certified subscriber access to a speech-generating device that is all of the following:

(A) A telecommunications device or a device that includes a telecommunications component.

(B) Appropriate to meet the subscriber's needs for access to, and use of, the telephone network, based on the recommendation of a licensed speech-language pathologist.

(C) Consistent with the quality of speech-generating devices available for purchase in the state.

(2) The commission shall adopt rules to implement this subdivision and subdivision (e) by January 1, 2014.

(e) All of the following apply to any device or equipment described in this section that is classified as durable medical equipment under guidelines established by the United States Department of Health and Human Services:

(1) It is the intent of the Legislature that the commission be the provider of last resort and that eligible subscribers first obtain coverage from any available public or private insurance.

(2) The commission may require the subscriber to provide information about coverage for any or all of the cost of the device or equipment that is available from any public or private insurance, the cost to the subscriber of any deductible, copayment, or other relevant expense, and any related benefit cap information.

(3) The total cost of any device or equipment provided to a subscriber under this section shall not exceed the rate of reimbursement provided by Medi-Cal for that device or equipment.

(f) Nothing in this section requires the commission to provide training to a subscriber on the use of a speech-generating device.

(g) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a), (b), (c), and (d) to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2020. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(h) The commission shall determine and specify those statewide organizations representing the deaf or hearing impaired that shall receive a telecommunications device pursuant to subdivision (a) or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(i) The commission may direct a telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(j) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (g). Until January 1, 2020, the commission may make, within the limits set by subdivision (g), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance that is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(k) The commission shall prepare and submit to the Legislature, on or before March 1 of each year, a report on the fiscal status of the programs established and funded pursuant to this section and Sections 2881.1 and 2881.2. The report shall include a statement of the surcharge level established pursuant to subdivision (g) and revenues produced by the surcharge, an accounting of program expenses, and an evaluation of options for controlling those expenses and increasing program efficiency, including, but not limited to, all of the following proposals:

(1) The establishment of a means test for persons to qualify for program equipment or free or reduced charges for the use of telecommunication services.

(2) If and to the extent not prohibited under Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336), as amended (47 U.S.C. Sec. 225), the imposition of limits or other restrictions on maximum usage levels for the relay service, which shall include the development of a program to provide basic communications requirements to all relay users at discounted rates, including discounted toll-call rates, and, for usage in excess of those basic requirements, at rates that recover the full costs of service.

(3) More efficient means for obtaining and distributing equipment to qualified subscribers.

(4) The establishment of quality standards for increasing the efficiency of the relay system.

(5) Any modification to the program in order to maximize participation and funding opportunity under similar federal programs.

(l) The report described in subdivision (k) that is due no later than March 1, 2014, shall evaluate options for controlling the program costs of providing speech-generating devices and include information on any barriers to participation in the program by eligible subscribers.

(m) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

(n) The commission shall structure the programs required by this section so that a charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

(o) (1) The requirement for submitting a report imposed under subdivision (k) is inoperative on January 1, 2021, pursuant to Section 10231.5 of the Government Code.

(2) A report submitted pursuant to subdivision (k) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid administrative and reporting disruptions with respect to the state's deaf and disabled telecommunications universal service programs, to maintain compliance with federal telecommunications universal service program requirements, and to encourage continued investments in the development and manufacture of technology and software that advances the communications capabilities of the deaf and disabled, it is necessary for this act to take effect immediately.

Approved _____, 2013

Governor

Bill Analysis

SENATE RULES COMMITTEE	SB 129
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	

UNFINISHED BUSINESS

Bill No: SB 129
Author: Wright (D), et al.
Amended: 6/5/13
Vote: 27 - Urgency

SENATE ENERGY, UTILITIES & COMMUNIC. COMM. : 11-0, 4/2/13
AYES: Padilla, Fuller, Cannella, Corbett, De León, DeSaulnier,
Hill, Knight, Pavley, Wolk, Wright

SENATE APPROPRIATIONS COMMITTEE : 6-1, 5/6/13
AYES: De León, Walters, Hill, Lara, Padilla, Steinberg
NOES: Gaines

SENATE FLOOR : 34-0, 5/13/13
AYES: Anderson, Beall, Berryhill, Block, Cannella, Corbett,
Correa, De León, DeSaulnier, Emmerson, Evans, Fuller,
Galgiani, Hancock, Hernandez, Hill, Hueso, Huff, Jackson,
Knight, Lara, Leno, Lieu, Liu, Monning, Nielsen, Padilla,
Pavley, Roth, Steinberg, Wolk, Wright, Wyland, Yee
NO VOTE RECORDED: Calderon, Gaines, Price, Walters, Vacancy,
Vacancy

ASSEMBLY FLOOR : 72-1, 9/4/13 - See last page for vote

SUBJECT : Deaf and disabled telecommunications program

SOURCE : Public Utilities Commission

DIGEST : This bill extends the sunset on the Public Utilities
Commissions (PUC) authority to collect a surcharge on intrastate

CONTINUED

telephone service to fund the Deaf and Disabled Telecommunications Program (DDTP) until January 1, 2020, and extends the reporting requirement until January 1, 2021.

Assembly Amendments make technical and clarifying changes.

ANALYSIS :

Existing law:

1. Requires PUC to design and implement a universal service program to provide a telecommunications device, dual-party relay system, and specialized equipment to enable persons who are deaf, hearing impaired, or disabled to use the telecommunications network at no charge additional to the basic exchange rate.
2. Requires PUC to design and implement a program to provide access to a speech-generating device to enable individuals with speech disabilities to use the telecommunications network at no charge additional to the basic exchange rate, and requires PUC to adopt rules for this program by January 1, 2014.
3. Requires PUC to design and implement a program to provide access to a speech-generating telecommunications device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate.
4. Requires PUC to expand the deaf and disabled program to include assistance to individuals with speech disabilities, including assistance in purchasing speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment.
5. Requires, until January 1, 2014, the PUC to establish a surcharge, not to exceed 0.5%, that is uniformly applied to a subscriber's intrastate telephone service charges to allow providers of the equipment and service provided pursuant to the deaf and disabled programs to recover their costs.
6. Requires the PUC to submit a report on the fiscal status of the programs to the Legislature on or before December 31 of each year, until January 1, 2016.

CONTINUED

This bill:

1. Extends the surcharge to fund the DDTP until January 1, 2020.
2. Extends the reporting requirements until January 1, 2021, and requires the PUC to submit the report to the Legislature on or before March 1 of each year.
3. Requires the report to include an evaluation of any modification to the DDTP that would maximize participation and funding opportunities under similar federal programs, and requires the PUC to evaluate options for controlling the DDTP costs of providing speech generating devices, and include any information on barriers to participation by eligible subscribers.
4. Deletes provisions requiring PUC to expand the DDTP to include assistance to individuals with speech disabilities, including assistance in purchasing speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment.
5. Repeals the provisions that states that existing members of the DDTP Administrative Committee should serve out their current terms of office as members of the Committee, but not to exceed July 1, 2003 and requires the Committee to develop and submit, not later than October 1, 2002, recommendations to PUC for administration and governance of the deaf and disabled programs, as prescribed.

Background

The DDTP, first established in 1979, is one of several universal service programs designed to ensure that affordable telecommunications service is ubiquitously available to all Californians. DDTP currently provides service in three general categories: (1) specialized telecommunications devices for deaf and hard-of-hearing individuals; (2) dual-party relay system to connect deaf and hard-of-hearing individuals to hearing parties; and (3) specialized telecommunications equipment to individuals with hearing, vision, mobility, speech and cognitive disabilities. As required by AB 136 (Beall, Chapter 404,

CONTINUED

Statutes of 2011), the PUC currently is developing rules, to be effective January 1, 2014, for DDTP to provide access to a speech-generating device to individuals with a certified speech disability.

The DDTP is administered by the PUC, with input from two advisory boards, and with program services and equipment provided to eligible persons by contractors. The California Telephone Access Program distributes equipment to individuals who are certified as eligible by specified health care professionals. The California Relay Service is a dual party relay system with operators that connect a user of specialized telecommunications devices with any other telephone user. The PUC, contractors, and advisory committees conduct outreach to increase participation and ensure awareness among veterans and non-English speakers, streamline eligibility certification with health care professionals, and incorporate new technologies and services that respond to consumers' telecommunications needs.

Funding of the Program . Existing law effective until January 1, 2014, requires funding of the DDTP through a customer surcharge of not more than one-half of 1% of charges for intrastate telephone service, including landline, wireless, and Voice over Internet Protocol service. PUC is authorized to adjust the surcharge to meet program expenses. It currently is set at 0.20%. PUC reports the following total program expenditures for the past few years:

<u>Fiscal Year</u>	<u>Total Expenditures</u>
2008-09	\$69.5 million
2009-10	\$60.1 million
2010-11	\$66 million
2011-12	\$68.6 million

Comments

According to the author's office, thousands of Californians are challenged using a standard telephone because of difficulty seeing, hearing, speaking, moving or remembering. DDTP enables these citizens to communicate, be reached by friends and loved-ones, and to receive health and safety impacting services connecting them by telephone to emergency, medical, and business entities. In addition, if the surcharge expires California would be out of compliance with the Americans with Disabilities

CONTINUED

Act requirement to provide relay services.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: Yes

According to the Senate Appropriations Committee, there are annual revenues of \$35 million to \$55 million to the DDTP Administrative Committee Fund (special fund) from rate surcharges.

SUPPORT : (Verified 9/4/13)

Public Utilities Commission (source)
Area 4 Agency on Aging
Association of Regional Center Agencies
AT&T
California Commission on Aging
California Communications Access Foundation
California Communications Association
California Senior Leaders Alliance
California Senior Legislature
California's Independent Telecommunications Companies
Consumer Federation of California
Disability Rights Education and Defense Fund
Division of Ratepayer Advocates
SureWest Communications

ASSEMBLY FLOOR : 72-1, 9/4/13

AYES: Achadjian, Alejo, Allen, Ammiano, Atkins, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Daly, Dickinson, Eggman, Fong, Fox, Frazier, Beth Gaines, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gorell, Gray, Hagman, Hall, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Mitchell, Morrell, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Pan, Patterson, Perea, V. Manuel Pérez, Quirk, Quirk-Silva, Rendon, Salas, Skinner, Stone, Ting, Wagner, Waldron, Weber, Wieckowski, Wilk, Williams, Yamada, John A. Pérez
NOES: Donnelly
NO VOTE RECORDED: Bigelow, Dahle, Grove, Mansoor, Melendez, Vacancy, Vacancy

CONTINUED

SB 129
Page

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN ASSEMBLY JUNE 18, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 24, 2013

SENATE BILL

No. 176

**Introduced by Senator Galgiani
(Coauthors: Senators Cannella and Correa)**

February 6, 2013

An act to amend Sections 11344.1, 11346, and 11346.45 of the Government Code, relating to administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 176, as amended, Galgiani. Administrative procedures.

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations. Existing law specifically requires a state agency proposing to adopt regulations, prior to publication of a notice of proposed adoption, amendment, or repeal of a regulation, to involve parties who would be subject to the proposed regulations in public discussions regarding those proposed regulations, when the proposed regulations involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period. Existing law requires the office to provide for the publication of the California Regulatory Notice Register and to include specified information in the register, including notices of proposed action prepared

by regulatory agencies, a summary of regulations filed with the Secretary of State, and a summary of regulation decisions issued, as specified.

This bill would require the office to allow electronic submission to the office by a state agency of notices required to be published and information required to be submitted pursuant to specified provisions of existing law. The bill would also expand the public discussion requirement described above to require a state agency proposing to adopt regulations, prior to publication of a notice of proposed adoption, amendment, or repeal of a regulation, to involve parties that would be subject to the proposed regulations in public discussions regarding those proposed regulations, without regard to the complexity or number of proposals.

Existing law authorizes an agency that is considering adopting, amending, or repealing a regulation to consult with interested persons before initiating regulatory action.

This bill would instead require such an agency to *make a reasonable effort to consult with interested persons before who would be subject to the proposed regulation, or their representatives, prior to initiating regulatory action, as provided.*

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

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

- 1 SECTION 1. Section 11344.1 of the Government Code is
- 2 amended to read:
- 3 11344.1. The office shall do all of the following:
- 4 (a) Provide for the publication of the California Regulatory
- 5 Notice Register, which shall be an official publication of the State
- 6 of California and which shall contain the following:
- 7 (1) Notices of proposed action prepared by regulatory agencies,
- 8 subject to the notice requirements of this chapter, and which have
- 9 been approved by the office.
- 10 (2) A summary of all regulations filed with the Secretary of
- 11 State in the previous week.
- 12 (3) Summaries of all regulation decisions issued in the previous
- 13 week detailing the reasons for disapproval of a regulation, the
- 14 reasons for not filing an emergency regulation, and the reasons for
- 15 repealing an emergency regulation. The California Regulatory

1 Notice Register shall also include a quarterly index of regulation
2 decisions.

3 (4) Material that is required to be published under Sections
4 11349.5, 11349.7, and 11349.9.

5 (5) Determinations issued pursuant to Section 11340.5.

6 (b) Establish the publication dates and manner and form in
7 which the California Regulatory Notice Register shall be prepared
8 and published and ensure that it is published and distributed in a
9 timely manner to the presiding officer and rules committee of each
10 house of the Legislature and to all subscribers.

11 (c) Post on its Internet Web site, on a weekly basis:

12 (1) The California Regulatory Notice Register. Each issue of
13 the California Regulatory Notice Register on the office's Internet
14 Web site shall remain posted for a minimum of 18 months.

15 (2) One or more Internet links to assist the public to gain access
16 to the text of regulations proposed by state agencies.

17 (d) Permit a state agency to submit to the office as an electronic
18 communication, as defined in Section 11340.85, a notice required
19 to be published pursuant to subdivision (a) and Section 11346.4,
20 and the information required to be submitted to the office pursuant
21 to Sections 11346.2, 11346.9, and 11347.3.

22 SEC. 2. Section 11346 of the Government Code is amended
23 to read:

24 11346. (a) It is the purpose of this chapter to establish basic
25 minimum procedural requirements for the adoption, amendment,
26 or repeal of administrative regulations. Except as provided in
27 Section 11346.1, the provisions of this chapter are applicable to
28 the exercise of any quasi-legislative power conferred by any statute
29 heretofore or hereafter enacted, but nothing in this chapter repeals
30 or diminishes additional requirements imposed by any statute. This
31 chapter shall not be superseded or modified by any subsequent
32 legislation except to the extent that the legislation shall do so
33 expressly.

34 (b) (1) (A) An agency that is considering adopting, amending,
35 or repealing a regulation shall *make a reasonable effort to consult*
36 *with interested persons—before who would be subject to the*
37 *proposed regulation, or their representatives, prior* initiating
38 regulatory action pursuant to this article.

1 (B) An agency shall include in its rulemaking record a list of
2 interested persons, or their representatives, who were consulted
3 pursuant to subparagraph (A).

4 (2) If an agency does not or cannot comply with paragraph (1),
5 it shall state the reasons for noncompliance with reasonable
6 specificity in the rulemaking record.

7 SEC. 3. Section 11346.45 of the Government Code is amended
8 to read:

9 11346.45. (a) In order to increase public participation and
10 improve the quality of regulations, a state agency proposing to
11 adopt regulations, prior to publication of the notice required by
12 Section 11346.5, shall involve parties that would be subject to the
13 proposed regulations in public discussions regarding those
14 proposed regulations.

15 (b) This section does not apply to a state agency in any instance
16 where that state agency is required to implement federal law and
17 regulations for which there is little or no discretion on the part of
18 the state to vary.

19 (c) If the agency does not or cannot comply with subdivision
20 (a), it shall state the reasons for noncompliance with reasonable
21 specificity in the rulemaking record.

22 (d) This section shall not be subject to judicial review or to
23 Section 11349.1.

Date of Hearing: August 30, 2013

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Mike Gatto, Chair

SB 176 (Galgiani) - As Amended: August 7, 2013

Policy Committee:
AccountabilityVote:12 - 0

Urgency: No State Mandated Local Program:
No Reimbursable:

SUMMARY

This bill amends the Administrative Procedure Act (APA) to increase the requirements for agencies in the rulemaking process. Specifically, this bill:

- 1) Requires state agencies to make a reasonable effort to consult with interested persons and affected entities at the beginning of the rulemaking process.
- 2) Requires agencies that do not or cannot comply with the requirement to consult with interested persons to justify the noncompliance in the rulemaking record.
- 3) Requires state agencies to include parties that will be subject to a proposed regulation in public discussions prior to the publication of the rulemaking notice, regardless of the complexity of the proposal.
- 4) Permits state agencies to electronically submit mandated notices and rulemaking documents to the Office of Administrative Law (OAL).

FISCAL EFFECT

- 1) Unknown costs, potentially in the millions of dollars for the workload associated with requiring every agency that submits a regulations package to conduct public discussions with interested and affected parties prior to the publication of the notice, regardless of the complexity of the proposed regulation.

2) One-time costs in the range of \$500,000 GF for the technology requirements associated with allowing agencies to submit documents electronically to OAL.

COMMENTS

1) Rationale . Supporters note that since the adoption of the APA in 1945, the process for developing regulations has evolved substantially, and today a majority of regulations are developed during the pre-rulemaking process. They believe that this bill will greatly benefit state agencies when developing regulations by encouraging citizen participation.

The author is proposing to amend Government Code Section 11346 (b), which currently states "An agency that is considering adopting, amending, or repealing a regulation may consult with interested persons before initiating regulatory action pursuant to this article." Supporters contend that the current permissive requirement does not hold agencies sufficiently accountable for notifying the public and affected parties of new rules or changes to existing rules.

Accordingly, this bill amends this section by replacing "may" with "shall make a reasonable effort to consult with interested persons who would be subject to the proposed regulation, or their representatives, prior to initiating regulatory action pursuant to this article." This bill now requires agencies to engage with interested persons. Flexibility remains by recognizing the agency need only "make a reasonable effort."

Additional flexibility is also provided to agencies by allowing them to state in the rulemaking record specific reasons why they are unable to contact interested parties as specified.

2) Background . The Administrative Procedures Act (APA) governs the adoption of regulations by state agencies for purposes of ensuring they are clear, necessary, legally valid, and available to the public. In seeking adoption of a proposed regulation, state agencies must comply with procedural requirements that include publishing the proposed regulation along with a supporting statement of reasons, mailing and publishing a notice of the proposed action 45 days before a hearing or before the close of the public comment period, and

submitting a final statement to OAL that summarizes and responds to all objections, recommendations and proposed alternatives raised during the public comment period. The OAL is then required to approve or reject the proposed regulation within 30 days.

OAL is responsible for reviewing administrative regulations proposed by over 200 state agencies for compliance with the standards set forth in the APA, for transmitting these regulations to SOS and for publishing regulations in the California Code of Regulations. Existing law requires OAL to review all regulations for necessity and non-duplication, and requires OAL to print a summary of all regulations filed with SOS in the previous week in the California Regulatory Notice Register. On average, OAL reviews 700 regulations packages per year. Those packages can be anywhere from one to 400 pages long. In 2011, close to 5,000 different regulations sections were reviewed by OAL.

Analysis Prepared by : Julie Salley-Gray / APPR. / (916)
319-2081

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Speech & Hearing

STAFF:

**8 civil service;
1 exempt**

LICENSES:

16,983

BOARD MEMBERSHIP:

**6 licensees,
3 public representatives,
which includes 1 physician**

STRATEGIC PLAN ADOPTED:

July 2012

www.speechandhearing.ca.gov



Summary of Licensing Activity

Initial Licenses/Certificates/Permits			
TYPE	APPS RECEIVED	ISSUED	RENEWED
BRANCH	175	175	515
HEARING AID DISPENSER	39	84	876
TEMPORARY/TRAINEE	101	101	104
TEMPORARY	10	10	NA
SP - SPEECH LANGUAGE PATHOLOGIST	400	1,056	5,605
AU - AUDIOLOGIST	35	76	614
SPA - SPEECH-LANGUAGE PATHOLOGY ASSISTANT	415	407	724
AIDES	49	63	NA
RPE - TEMPORARY REQUIRED PROFESSIONAL EXPERIENCE LICENSES	692	725	NA
SPT - SPEECH TEMPORARY LICENSE	0	0	NA
AUT - AUDIOLOGY TEMPORARY LICENSE	1	4	NA
PDP - PROFESSIONAL DEVELOPMENT PROVIDER	11	10	58
SPEECH-LANGUAGE PATHOLOGY ASSISTANT PROGRAM	1	1	NA
DAU - DISPENSING AUDIOLOGIST	NA	34	784

Licensing Population by Type			
TYPE	CERTIFICATES/ PERMITS	LICENSES/ REGISTRATIONS	APPROVALS
BRANCH	NA	653	NA
HEARING AID DISPENSER	NA	946	NA
TEMPORARY/TRAINEE	NA	95	NA
TEMPORARY	NA	9	NA
SP - SPEECH LANGUAGE PATHOLOGIST	NA	12,696	NA
AU - AUDIOLOGIST	NA	609	NA
SPA - SPEECH-LANGUAGE PATHOLOGY ASSISTANT	N	1,771	NA
AIDES	NA	120	NA
RPE - TEMPORARY REQUIRED PROFESSIONAL EXPERIENCE LICENSES	NA	682	NA
SPT - SPEECH TEMPORARY LICENSE	NA	0	NA
AUT - AUDIOLOGY TEMPORARY LICENSE	NA	0	NA
PDP - PROFESSIONAL DEVELOPMENT PROVIDER	NA	156	NA
SPEECH-LANGUAGE PATHOLOGY ASSISTANT PROGRAM	NA	NA	7
DAU - DISPENSING AUDIOLOGIST	NA	942	NA

Summary of Licensing Activity

Renewal and Continuing Education		
TYPE	FREQUENCY OF RENEWAL	NUMBER CE HOURS REQUIRED EACH CYCLE
BRANCH	EVERY YEAR	NA
HEARING AID DISPENSER	EVERY YEAR	9
TEMPORARY/TRAINEE	0	NA
TEMPORARY	0	NA
SPEECH LANGUAGE PATHOLOGIST	EVERY 2 YEARS	24
AUDIOLOGIST	EVERY 2 YEARS	24
SPEECH-LANGUAGE PATHOLOGY ASSISTANT	EVERY 2 YEARS	12
AIDES	0	NA
TEMPORARY REQUIRED PROFESSIONAL EXPERIENCE LICENSES	VARIES	NA
SPEECH TEMPORARY LICENSE	ONCE FOR 6 MONTHS	NA
AUDIOLOGY TEMPORARY LICENSE	ONCE FOR 6 MONTHS	NA
PROFESSIONAL DEVELOPMENT PROVIDER	EVERY 2 YEARS	NA
SPEECH-LANGUAGE PATHOLOGY ASSISTANT PROGRAM	0	NA
DAU - DISPENSING AUDIOLOGIST	EVERY YEAR	12

Exams

* SEE SECTION 139 REPORT, PAGE 152

Summary of Enforcement Activity

Consumer Complaints—Intake

119	RECEIVED
0	CLOSED WITHOUT REFERRAL FOR INVESTIGATION
119	REFERRED FOR INVESTIGATION
0	PENDING

Conviction/Arrest Notification Complaints

48	RECEIVED
48	CLOSED/REFERRED FOR INVESTIGATION
0	PENDING

Inspections

NOT APPLICABLE TO THIS PROGRAM

Investigations

167	OPENED
190	CLOSED
140	PENDING

Number of Days to Complete Intake and Investigations

50	UP TO 90 DAYS
25	91 TO 180 DAYS
47	181 DAYS TO 1 YEAR
47	1 TO 2 YEARS
14	2 TO 3 YEARS
7	OVER 3 YEARS
313	AVERAGE NUMBER OF DAYS TO COMPLETE INTAKE AND INVESTIGATIONS

Citations and Fines

9	ISSUED
4	ISSUED WITH A FINE
0	WITHDRAWN
2	DISMISSED
724	AVERAGE NUMBER OF DAYS TO ISSUE A CITATION AND FINE

Summary of Enforcement Activity

Total Amount of Fines

\$13,450	ASSESSED
\$1,200	REDUCED
\$13,750	COLLECTED

Criminal/Civil Actions

1	REFERRALS FOR CRIMINAL/CIVIL ACTION
0	CRIMINAL ACTIONS FILED
0	CIVIL ACTIONS FILED

Office of the Attorney General/Disciplinary Actions

13	CASES OPENED/INITIATED
4	CASES CLOSED
24	CASES PENDING

Number of Days to Complete AG Cases

	1 YEAR
2	1 TO 2 YEARS
	2 TO 3 YEARS
	3 TO 4 YEARS
2	OVER 4 YEARS
1,070	AVERAGE NUMBER OF DAYS TO IMPOSE DISCIPLINE

Formal Actions Filed/Withdrawn/Dismissed

3	STATEMENTS OF ISSUES FILED
4	ACCUSATIONS FILED
0	RESTRAINING/RESTRICTION/SUSPENSION ORDERS GRANTED
0	STATEMENTS OF ISSUES WITHDRAWN/DISMISSED
2	ACCUSATIONS WITHDRAWN/DISMISSED

Administrative Outcomes/Final Orders

0	LICENSE APPLICATIONS DENIED
0	REVOCAION
1	SURRENDER OF LICENSE
0	PROBATION WITH SUSPENSION
0	SUSPENSION ONLY
4	PROBATION ONLY
0	PUBLIC REPRIMAND
0	OTHER DECISIONS

Petition for Modification or Termination of Probation

1	GRANTED
0	DENIED
1	TOTAL

Petition for Reinstatement of Revoked License/Registration/Certification

0	GRANTED
0	DENIED
0	TOTAL

Cost Recovery to DCA

\$15,347	ORDERED
\$13,999.26	COLLECTED

Consumer Restitution to Consumers/Refunds/Savings

\$36,003.27	RESTITUTION ORDERED
\$39,648.50	AMOUNT REFUNDED
\$0	REWORK AT NO CHARGE
\$0	ADJUSTMENTS IN MONEY OWED/PRODUCT RETURNED/EXCHANGED
\$75,651.77	TOTAL SAVINGS ACHIEVED FOR CONSUMERS