

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



**BOARD MEETING**



*May 22 -23, 2014*

The Department of Consumer Affairs  
2005 Evergreen Street  
"Hearing Room"  
Sacramento, CA 95815





**MEETING NOTICE & AGENDA**  
**May 22-23, 2014**  
**Department of Consumer Affairs**  
**2005 Evergreen Street**  
**“Hearing Room”**  
**Sacramento, CA 95815**  
**(916) 263-2666**

**May 22, 2014 - 1:30 p.m.**

**Speech-Language Pathology Practice Committee**

*(Patti Solomon-Rice, Committee Chair, Speech-Language Pathologist; Debbie Snow- Public Member; Rodney Diaz-Otolaryngologist; Dee Parker- Speech Language Pathologist)*

- I. Call to Order
- II. Introductions
- III. Approval of the February 6, 2014, Speech-Language Pathology Practice Committee Meeting Minutes
- IV. Report from the California Commission on Teacher Credentialing (CCTC) Regarding Credential Waivers Issued to Speech-Language Pathologists
  - A. Variable Term Waivers (VTW) Issued 2009-2012
  - B. VTW Handbook
- V. Discussion on Public Comment Concerning the Limited Number of Continuing Education Hours for Self-Study
  - A. Continuing Education Regulations
- VI. Update on the Speech-Language Pathology Occupational Analysis

**Upon conclusion of the Speech-Language Pathology Practice Committee Meeting:**

**The Hearing Aid Dispensers 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 February 6, 2014 Hearing Aid Dispensers Committee Meeting Minutes
- IV. Discussion and Possible Action on the Development of Proposed Practice Guidelines for Hearing Aid Dispensing

- V. Discussion on Whether a Bone-Anchored Device, External Sound Processor, Requires a License to Dispense
- VI. Discussion and Possible Action on SB 1326 – Roth: Warranty Provisions for Hearing Aids
  - A. SB 1326 Summary of Changes
  - B. SB 1326 Amended April 2014
- VII. Update on Exemption Request of the Federal Drug Administration on Mail Order and Catalog Sales of Hearing Aids

**Upon conclusion of the Hearing Aid Dispensers 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 February 6, 2014 Audiology Practice Committee Meeting Minutes
- IV. Review/Discussion/Possible Action on the Informal Public Comments on the Proposed Regulatory Amendments for Audiology Aide Supervision Standards and Practice Limitations (16 CCR 1399.154-1399.154.4)
  - A. Regulation Language adopted at the February Committee Meeting Regarding the Changes for Supervision and Practice Limitations of an Audiology Aide
- V. Discussion on the Requirements that MediCal/CCS (California Children Services) Places on Audiologists Who Hold a License but Not Yet Panned by CCS to Provide Services
- VI. Update on the Outreach Letters Regarding the Services Provided by Regional Centers to Children Who Are Deaf or Hard of Hearing

**May 23, 2014 – 9:00 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; Dee Parker-Speech-Language Pathologist; Debbie Snow-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

**CLOSED SESSION**

The Board will meet in closed session pursuant to Government Code Section 11126(a)(1) to interview and possibly take action regarding the appointment of an Executive Officer.

### **RETURN TO OPEN SESSION**

- III. Report on Action Taken in Closed Session (if necessary pursuant to Government Code Section 11125.2).
- IV. Approval of February 7, 2014 Board Meeting Minutes
- V. Executive Officer's Report
  - A. Budget
  - B. Administration
- VI. Legislative Update
  - A. Senate Committee on Business, Professions and Economic Development's Omnibus Bill – accepted to carry the Employment Relationship B&P Code 655.2
  - B. SB 1326 Roth – Warranty Provisions for Hearing Aids
- VII. Practice Committee Reports
  - A. Speech-Language Pathology Practice Committee Report
  - B. Hearing Aid Dispensers Committee
  - C. Audiology Practice Committee Report
- VIII. Licensing and Enforcement Statistical Data
- IX. Public Comment on Items Not on the Agenda
- X. Future 2014 Board Meetings
  - A. Aug 21-22, Los Angeles
  - B. Nov 13-14, San Diego
- XI. 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](http://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. All times indicated and the order of business are approximate and subject to change. Items scheduled for a particular day may be moved to an earlier day to facilitate the Board's business.

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 Breanne Humphreys, Interim 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: While the Board intends to broadcast live via webcast, it may not be possible to webcast the entire open meeting due to limitations on resources. The meeting as noticed is scheduled to be broadcast live via webcast [http://www.dca.ca.gov/publications/multimedia/webcast\\_current.shtml](http://www.dca.ca.gov/publications/multimedia/webcast_current.shtml)





**SPEECH-LANGUAGE PATHOLOGY PRACTICE COMMITTEE  
MINUTES**

**Radisson Hotel/San Francisco Airport**

**February 6, 2014**

5000 Sierra Point Parkway  
Brisbane, CA 94005

**Committee Members Present**

Patti Solomon-Rice, Chair, Speech-Language Pathologist  
Dee Parker, Speech-Language Pathologist  
Debbie Snow, Public Member

**Committee Members Absent**

Rodney Diaz, Otolaryngologist

**Board Member Present**

Alison Grimes, Dispensing Audiologist  
Marcia Raggio, Dispensing Audiologist  
Amnon Shalev, Hearing Aid Dispenser

**Staff Present**

Breanne Humphreys, Interim Executive Officer  
Sabina Knight, Legal Counsel

**I. Call to Order**

Chairperson Solomon-Rice called the meeting to order at 2:15 p.m.

**II. Approval of the June 12, 2013 Speech-Language Pathology Practice Committee Meeting Minutes**

**M/S/C Parker/Snow**

**Minutes were accepted as written.**

**III. Introductions**

There were no introductions.

#### **IV. Consider Amendments to the Speech-Language Pathology Assistant's (SLPA) Regulations (16 CCR 1399.170-1399.170.20.1 – Scope of Responsibility & Supervision Provisions**

Ms. Solomon-Rice stated that at the October meeting the proposed regulatory amendments were adopted and the Board requested they be sent to interested parties for comments on the proposed regulation changes.

The proposed changes were reviewed:

- Supervisor must have a minimum of two (2) years of full-time experience providing services.
- Direct supervision definition now includes electronic means.
- SLPA Program Director must hold a valid and clear license in speech-language pathology or equivalent credentials.
- Update the ASHA reference document to the Guidelines for the Training, Use, and Supervision of SLPA as the current 2004. [Note: This document was replaced in 2013 entitled the Speech-Language Pathology Assistant Scope of Practice.]
- During the first 90 days of the employment of a SLPA, the supervisor is to provide 20% immediate supervision per week. Immediate supervision is defined as the supervisor must be physically present.
- Direct supervision now is defined as observation and guidance via on-site or live electronic means by the supervising SLP.
- Minimum required field hours is increased from seventy (70) to one-hundred (100) hours.
- Six (6) hours of continuing education (CE) in supervision is required prior to commencement of supervision.
- Three (3) hours of supervision training of CE is required every four (4) years.

The Board received nine (9) public comments.

- ASHA document is incorrect. The 2004 document was rescinded and replaced by the 2013 document.
- Asked if these revisions apply to SLPAs in training or licensees: applies to licensees only.
- Concerns about enforcing the regulations, individuals out of compliance, want signed statement from supervisor acknowledging the changes.
- Asked what the effective date is.
- Four individuals praised the proposed changes.

Ms. Parker stated that electronic could be both pre-recorded and live and the intent is to have supervision live/interactive. The committee agreed to add 'live' to the definition.

Discussion was held on how to enforce these regulations. Ms. Solomon-Rice commented that it is a contractual agreement between the supervisor and SLPA. Ms. Knight suggested we notice it for public comments and ask the stakeholders how we should ensure adherence. Ms. Parker commented that the lack of supervision is a problem; the supervisors do not have to document



like the RPE supervisors. Ms. Knight suggested we could add a regulation and have a supervision audit, much like our continuing education audit.

- Ms. Knight will inquire with other healthcare Boards on how they monitor supervision regulations.
- Ms. Solomon-Rice will inquire with the national board of speech pathologists.
- Ms. Humphreys, Solomon-Rice, and Parker will review the current RPE supervisor forms.

The committee will recommend to the full Board that we make the changes to reflect the new 2013 ASHA document and the enhanced definition for direct supervision to read as live electronic means.

#### **V. Report from the California Commission on Teacher Credentialing (CCTC) Regarding Credential Waivers Issued to Speech-Language Pathologists**

CCTC was unable to attend our meeting today because of travel restrictions but will attend the May Board meeting in Sacramento. Ms. Solomon-Rice will send emails inviting CSHA President/President Elect/Lobbyist, and CAPCSD to attend the meeting.

Following are the questions we would like CCTC to address:

- a) Process for applying for Variable Term Waiver (VTW)
- b) Minimum qualifications of the VTW
- c) Pre-requisites for being a VTW SLP
- d) Scope of practice of the VTW SLP
- e) Oversight mechanism of the CTC over school districts granting VTWs
- f) Statistical information as available
  - i) Number of VTWs and number of SLP service credentials/rehab services credentials over the past 5 years
  - ii) Full-Time Equivalent of both VTWs and SLP service credentials/rehab services credentials over the past 5 years

The concern is that the speech-language pathologist working under a waiver is not practicing at a minimal level of competency. The waived SLP does not have a master's degree, has not passed the Praxis, and has not completed the required 300 clock hours of clinical work under supervision of a licensed speech-language pathologist.

Ms. Solomon-Rice reviewed the statistics for 2012:

- 415 variable term waivers were issued. (This is not the total number, it represents only what was issued and renewed for 2012.)
- 2000 credentials were issued or renewed.

Twenty percent (20%) of the issuances were for variable term waivers. The Board is interested in identifying how many are working with a variable term waiver. Districts typically do not report this data because it would indicate to parents that their child may not be receiving treatment from a credentialed speech-language pathologist.

To obtain a waiver in speech-language pathology, one must have a bachelor's degree (in anything) and be enrolled into a speech-language pathology post bachelor program for a minimum of two courses (6 units).

Ms. Parker commented that districts also use another category, TOSA, Teacher on Special Assignment. Districts are able to remove a teacher from the classroom and make them a speech-language pathologist. We do not know how many are in this category as there are 1000 districts throughout the state.

Ms. Knight distributed CTC's Waiver Book Guidelines for all types of waivers that the school system can issue. It is not just for speech-language pathology. Ms. Humphreys will include this document in the next Board packet for the May meeting.

## **VI. Update on the Speech-Language Pathology Occupational Analysis/Related Link to English Language Competency**

Ms. Solomon-Rice explained that an Occupational Analysis (OA) defines a profession in terms of the actual tasks that new licensees must be able to perform safely and competently at the time of licensure.

To begin this study, the Office of Professional Exam Services (OPES) initially conducted telephone interviews with eight speech-language pathologists to gain a better understanding of the profession and its three practice settings: public schools, medical, and private practice.

Ms. Humphreys thanked Barbra O'Hara of the California Speech-Hearing Association (CSHA) for sending out an email blast to their 5000 members. As a result the Board received approximately 50 licensees volunteering to participate in the OA.

The first two-day workshop was held in January and was comprised of 8-10 speech-language pathologists representing the three practice settings. The second workshop was held earlier this week.

In April a sample of the speech-language pathologist population will be invited to complete a survey of the clinical activities and tasks that the first two workshops identified as the minimum standards of competencies. Ms. Humphreys stated that the survey will take approximately two hours to complete and that the Board will grant two (2) continuing education hours for those licensees who participate.

Upon completion of the survey, OPES will compile the data and present it to the remaining two workshops which are scheduled in June. OPES anticipates to have completed the survey in August and will present the OA to the Board at the August meeting.

Chairperson Solomon-Rice adjourned the meeting at 3:10 p.m.

## Humphreys, Breanne@DCA

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**From:** Knight, Sabina@DCA  
**Sent:** Wednesday, January 29, 2014 11:02 AM  
**To:** Humphreys, Breanne@DCA  
**Subject:** SLP waivers

I have included data related to the number of Speech-Language Pathology Waivers that are issued each year from 2009 – 2012 received from the attorneys I spoke with there.

Please note, the data is broken out to include Variable Term Waivers in SLP issued for the first time and those that are subsequently reissued.

	2009	2010	2011	2012	% Change from 2009 to 2012
First-Time	194	182	134	145	-25.26%
Reissuance	288	300	299	270	-6.25%
<b>Total</b>	<b>482</b>	<b>482</b>	<b>433</b>	<b>415</b>	<b>-13.90%</b>

Thank you,

**Sabina A. Knight**

Attorney

*Division of Legal Affairs*

*Department of Consumer Affairs*

916-574-8220

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STATE OF CALIFORNIA

**dca**

DEPARTMENT OF CONSUMER AFFAIRS

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# **WAIVER REQUESTS GUIDEBOOK**



**Commission on Teacher Credentialing**  
**Ensuring Teacher Quality**

**Edition 2012**

*The purpose of this guidebook is to give employing agencies a single resource that includes all of the current information about the waiver process, when to submit a waiver, criteria for all waivers, the denial process and all forms that are necessary for a waiver request.*

*2012 Revision*

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*Commission on Teacher Credentialing  
1900 Capitol Avenue  
Sacramento, California 95811-4213*

*This guidebook is available on the Credential Information Guide (CIG)  
<http://www.ctc.ca.gov/credentials/cig2/manuals/WaiverHandbook.pdf>*

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## GLOSSARY OF TERMS

***Variable Term Waiver*** – The Variable Term Waiver is a document issued for employers who meet the waiver criteria when a fully credentialed teacher is not available for the assignment. It allows the employer to fill the assignment while searching for a fully credentialed teacher in the subject area of the assignment and gives the waiver holder additional time to complete requirements.

***Short-Term Waiver*** – The Short-Term Waiver gives local employing agencies the ability to cover unanticipated, immediate and short-term needs. The waiver allows employers to assign teachers who hold a basic credential to teach outside of their credential authorization for one semester or less with the teachers' consent.

***Waiver Criteria*** – Terms for the Waiver Criteria are set by the Commission and include specific requirements for designated high and low incidence credentialing areas including verification of recruitment efforts, evidence of qualifications to teach in the assignment and a commitment to meet the credentialing goals.

***High and Low Incidence Areas*** – Periodically the Commission conducts statistics on which credential types are in high need. Waiver requests in predominantly high need areas require less documentation and do not require submission of recruitment efforts verification.

***Waiver Conditions*** – These are the conditions set by the Commission that the waiver holder must meet in order to qualify for a permit, credential or a subsequent waiver. These conditions are written directly on the waiver document.

***Denial Letter*** – Letter to notify the employer that a teacher applicant does not meet the waiver criteria and must be removed from the classroom. If there is new information to support the waiver request, the employer may resubmit a request for re-evaluation.

***Request for Re-Evaluation*** – This process allows the employer to respond to a denial letter. The Commission will reconsider the waiver request only if new information has been submitted to support the waiver. The new information submitted must respond to concerns addressed in the denial letter. All supporting coursework or experience must have been completed prior to the timeframe of the waiver request.

***Precedential Decisions*** – Record of decisions made on cases that set precedence on waiver criteria.



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## INTRODUCTION

Since July 1994, the Commission on Teacher Credentialing has had the authority to issue waiver documents that have expressly to do with educator preparation and credentialing and with the ability of employers to employ or assign persons who are not appropriately credentialed for their assignment. All other waivers are under the legal authority of the State Board of Education or the Superintendent of Public Instruction.

Waivers are issued or denied based upon the Commission's established criteria and factors such as an employer's continuing needs; the support the employer will provide to the applicant; or extenuating, extraordinary and unanticipated circumstances.

As of July 1, 2006, the Commission granted staff the authority to issue or deny waivers. Waivers are processed in date order of receipt. Commission staff no longer presents waivers to the Committee of Credentials for approval. See Coded Correspondence 06-0010 for details at the following link: <http://www.ctc.ca.gov/notices/coded/060010/060010.pdf>

When an employing agency reviews its staffing needs and starts recruiting for various positions, all attempts must be made to fill a position with an appropriately credentialed employee. Employing agencies are required to first recruit a candidate who is qualified to participate in and enrolls in an approved internship program in the region of the employing agency and secondly a candidate who is scheduled to complete preliminary credential requirements within six months.

If a fully credentialed candidate is not available employing agencies must recruit candidates in this order:

- A candidate who is qualified to participate and to enroll in an internship program
- A candidate who is scheduled to complete his or her preliminary credential requirements within six months
- A candidate who qualifies to use a local assignment option
- A candidate who qualifies for the Provisional Internship Permit (PIP) or the Short Term Staff Permit (STSP)

If the employer is unable to find an individual who qualifies for one of the staffing options listed above, the Variable Term Waiver may be requested for the most qualified candidate.

The Commission has divided the waiver process into two types of waivers; short-term and variable term. Short-Term Waivers give local agencies the ability to cover unanticipated, immediate and short-term needs. This waiver allows employers to assign teachers who hold a basic credential to teach outside of their credential authorization for one semester or less with the teachers' consent. For a full description and a copy of the county reporting form refer to the section under Short-Term Waivers starting on page 29.

Variable Term Waivers give the employer the ability to cover assignments when a fully qualified credentialed employee cannot be found. Waivers allow employers to meet staffing needs while searching for an individual who either holds an appropriate credential or qualifies for one of the available assignment options for the assignment. It also allows the individuals holding waivers to complete their credential requirements while serving in the classroom.

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Variable Term Waivers:

- Allows the employing agency to assign identified individuals when there is an insufficient number of certificated persons who meet the specified employment criteria for the position;
- Temporarily exempt geographically isolated regions, which have severely limited ability to develop personnel from specific state requirements for educator preparation, licensing or assignment; or
- Facilitate assignments in school programs addressing issues of educational reform and other temporary conditions approved at the discretion of the Commission.

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## GENERAL WAIVER CRITERIA

Once the employing agency determines it has a need for a variable term waiver, it must verify that the individual has met the criteria approved by the Commission. Determinations are based upon the Commission's criteria and factors such as the employing agency's continuing need, the support the employer will provide to the applicant, or extenuating, extraordinary and unanticipated circumstances.

When Commission staff reviews a waiver request, a determining factor is how close the candidate is to qualifying for the permit or credential. Therefore, it is very important to provide all transcripts, examination scores, letters or other documentation to support that the individual has met all requirements for certification with the exception of the requirements that need to be waived.

Waiver requests must meet all of the following criteria:

**Recruitment:** Evidence that the employer attempted to recruit a fully credentialed teacher for the assignment through job announcement distributions, Institution of Higher Education (IHE) placement center contacts and internet recruitment through Ed Join etc. Low incidence areas must provide documentation of recruitment. Refer to the section on "High and Low Incidence Areas," page 5, for the current list of high and low incidence areas.

**Qualifications:** Written verification by the employing agency to explain why the applicant is the best available candidate for the position. Include all supporting materials such as degree verification, course work in the subject area, basic skills requirement, professional preparation program, and related experiences.

**Assignment:** Verification that the person has not been identified as misassigned in this assignment by the employing agency, or if the person has been identified as misassigned, there is evidence that action other than requesting a waiver was taken as a result of that misassignment.

**Commitment:** Verification that the candidate will have ongoing support and assistance in the subject area as provided by the appropriate person as determined by the employing agency. The Commission must be assured that the local employing agencies provide orientation, guidance, and assistance to candidates. The candidate must commit to completing requirements for the appropriate credential.

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## HIGH AND LOW INCIDENCE AREAS

Periodically the Commission reviews credential statistics to determine current high and low incidence areas. At its April 2006, meeting, the Commission took action to change the recognized credential waiver high and low incidence areas. As of July 1, 2006, new high and low incidence areas were established. Refer to Coded Correspondence 06-0006 for details at the following link: <http://www.ctc.ca.gov/notices/coded/060006/060006.pdf>

### High Incidence Areas

- ✓ Special Education, including Added Authorizations in Special Education
- ✓ Clinical Rehabilitative Services/Speech-Language Pathology
- ✓ Driver Education and Training
- ✓ 30 Day Substitute

### Low Incidence Areas

- ✓ Administrative Services
- ✓ Single Subject Teaching (all subject areas)
- ✓ Multiple Subjects Teaching
- ✓ Designated Subjects (except driver education and training)
- ✓ Library Media Services
- ✓ Pupil Personnel Services (counseling, psychology, social work)
- ✓ Reading Specialist/Certificate
- ✓ Teacher of English Learner Students

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## CRITERIA FOR LOW INCIDENCE AREA WAIVER REQUESTS

In addition to the general waiver criteria, low incidence area waivers require additional criteria that must be met. The Commission has determined there are no substantial shortages of individuals who hold these credential types.

***Personnel Shortage:*** Requires written documentation that no credentialed candidate applied for the position or that credentialed candidates did not meet specific employment criteria such as special skills for the assignment.

***Special Skills:*** Requires written documentation that the individual possesses special skills or can provide special services to the students in the assignment. Provide verification of the individual's training, experience or expertise to support that he or she is the best candidate for the assignment.

Possession of a state license or advanced degree in the field directly related to the assignment is an example of special skills. A candidate that holds a state Marriage and Family Therapist (MFT) license or a Masters degree in Social Work (MSW), from an accredited institution is evidence of special skills for the pupil service services waivers. Proficiency in a second language spoken by the students in the district is another special skill.

***Program Enrollment:*** Submit written documentation from the authorized university's administrator verifying the individual's current status in the credential program and the anticipated completion date.

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## CRITERIA FOR INITIAL WAIVER REQUESTS

### **Initial Basic Skills Requirement (BSR) Waivers**

For the purposes of issuing a waiver, the Commission can only consider the California Basic Educational Skills Test (CBEST) to meet the subsequent waiver conditions if BSR has not been met.

A BSR waiver will be considered for the following reasons:

- The applicant has not had the opportunity to take the CBEST.
- The applicant has attempted the CBEST but has not passed all sections.
- For math and science waivers: If the applicant has attempted the math section of the CBEST, a passing score must have been achieved.
- For English waivers: If the applicant has attempted the reading and writing sections of the CBEST, a passing score must have been achieved.
- The employer must ensure that the individual has access to support and guidance such as tutoring, coursework or professional development to increase the candidate's percentage of passing CBEST regardless if the individual has attempted a basic skills exam.

### **Initial Program Waivers**

For waivers to complete academic or program requirements, the program waiver will be considered if:

- The university verifies that the candidate has been admitted into the program or has attempted to enroll in the program.
- The candidate affirms that units will be completed to meet credential requirements.

### **Initial Experience Waivers**

For waivers to complete the experience requirement, the following applies:

- The applicant has special skills and meets all other requirements for the credential except the required years of experience.
- The applicant has special skills and meets all requirements for the credential except does not have recency.

**Note: If a waiver request is waiving more than one statute, the Basic Skills Requirement must be met first. All CBEST waiver conditions must be met before any subsequent waiver can be considered.**

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## SUBSEQUENT WAIVER CRITERIA

Waivers are generally only issued for one school year to enable the Commission to monitor and verify that the individual has made progress toward their credential goal. Subsequent waivers need supporting documentation to verify that progress has been made and that the subsequent waiver conditions have been met.

All subsequent waivers require employer verification that the teacher has performed satisfactorily in the assignment. Subsequent waiver requests for teachers of record must include performance evaluations that meet the requirements of Education Code §44662.

Evaluations must include assessments of the individuals' performance related to the following areas:

1. Students' progress toward the district's established grade level standards;
2. Instructional techniques and strategies used by the employee;
3. The employee's adherence to curricular objectives; and
4. The employee's establishment and maintenance of a suitable learning environment.

Subsequent waiver requests for Emergency 30-Day Substitute Teaching Permits do not require the detailed evaluation described above. However, such requests must include an affirmation by the employer that the individual has performed satisfactorily as a substitute.

Conditions listed on the waiver document must be met when applying for a subsequent waiver. If the applicant failed to meet any one or all of the specified conditions, a subsequent waiver may only be considered, if extenuating circumstances can be verified with documentation (e.g., a doctor's letter verifying serious illness of the applicant or close family member).

The following are acceptable extenuating circumstances:

- Personal or family health problems
- Distance to the university requires more than one and one half hours of traveling time; or
- There were no openings in the university program or the required course work was not available.

### **Subsequent Basic Skills Requirement (CBEST) Waivers**

CBEST waivers are granted for a maximum of three issuances. If an individual attempted the CBEST examination prior to the initial waiver request and passed one or more sections, each passing section is counted as one of the possible three issuances. For example, if two sections were passed, the applicant may only have one additional waiver issuance to pass the remaining section of the CBEST.

If an individual held a preliminary credential based on an out-of-state or out-of-country teacher preparation program but has not passed CBEST during the first year on the preliminary credential, that first year is counted as one CBEST waiver issuance of the possible three issuances.

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In addition to general waiver request information, application and documentation, all subsequent CBEST waivers must meet the following conditions:

- The applicant must attempt the CBEST exam at least twice during the period of the waiver;
- The applicant must achieve a passing score of 41 in at least one section of the CBEST exam; and
- The applicant must have satisfactory evaluations from the employer.

If these conditions are not met, the subsequent waiver will be denied.

### **Subsequent Program Waivers**

In addition to general waiver request information, application and documentation, the subsequent program waivers must include the following information:

- Verification that the applicant has been admitted to a college or university program for the credential;
- Official transcripts that verify the applicant has completed a minimum of six semester units of coursework applicable toward the credential requirements; and
- Verification that the applicant received satisfactory evaluations from the employer.
- If extenuating circumstances prevented the applicant's completion of the above, supporting documentation must be provided (e.g., a doctor's letter, a letter from university verifying full or unavailable classes, etc.)

If these conditions are not met, the subsequent program waiver will be denied.

### **Subsequent Experience Waivers**

- Verification that the applicant has completed one full year of experience in the area of the previous waiver toward the credential goal (e.g., official documentation) and
- Verification that the applicant received satisfactory evaluations from the employer.

If these conditions are not met, the subsequent experience waiver will be denied.

### **Subsequent Waivers with Specific Conditions Listed on the Waiver**

In addition to general waiver request information, application and documentation, the subsequent program waivers must include the following information:

- Verification that the applicant met specified conditions listed on the waiver; and
- Verification that the applicant received satisfactory evaluations from the employer.

If these conditions were not met, the subsequent waiver will be denied.



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### **Added Restrictions and Added Authorizations**

If your candidate worked on a waiver for another school but has not completed the school year, and is now accepting employment at your school, you must submit a new waiver request with new supporting materials and the appropriate fees for an added restriction. Added restriction requests will not require the applicant to meet conditions as long as the timeframe falls within the original waiver dates. However, the end dates of the original waiver and the added restriction waiver will have the same expiration dates. If the candidate is still in your employ after the end dates, a new waiver request must be submitted with the appropriate fees and conditions on the waiver must be met.

Note: Added restrictions for 30 Day Substitute Permit Waivers do not require additional fees; however in addition to a new waiver request application, the new employer must submit their own supporting materials such as their public notice or agenda item.

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## HOW AND WHEN TO SUBMIT A WAIVER REQUEST

Prior to submission of each waiver request a public notice must be given to declare the employer's intent to hire an individual on the basis of a waiver. Documentation that verifies the public notice must be included in each waiver request.

All initial and subsequent waiver requests must be completed and submitted by the employing agency on the Variable Term Waiver Form WV1. Form WV1 may be found at the following link:

<http://www.ctc.ca.gov/credentials/cig2/CIG-LEAFLETS/wv1.pdf>

The WV1SUB form is only for an initial 30 Day Substitute Waiver request. Form WV1SUB can be found at the following link:

<http://www.ctc.ca.gov/credentials/cig2/CIG-LEAFLETS/wv1sub.pdf>

All waiver requests must be submitted on the WVI or WV1SUB forms. For the first time applicant, fingerprint information (LiveScan receipt) must be included as supporting material with the waiver request form. Refer to page 21 for fee information.

Complete each waiver application request thoroughly and legibly. See the section on "How to Complete Waiver Forms" for instructions on pages 14-19. Include the front and back of transcripts for evaluation. When submitting true verified copies, please be sure the copies are legible and the name and address of the university is visible. If the application is incomplete, transcripts illegible or supporting documentation incomplete, the waiver request will be denied for insufficient information.

The beginning date of the service determines the issue date of the waiver request. Whenever possible, waiver requests should be submitted to the Commission prior to the applicant's first day of service. However, the Commission will honor the requested issue date on the waiver as long as the request is received by the Commission within ninety days from the issuance date.

Waiver requests received past the ninety days deadline date will not be evaluated and the request will be denied based upon the late submission. Upon receipt of the denial notice, the employer shall remove the applicant from the assignment. See Waiver Timeline Chart on page 14 for details. For references regarding the submission timeline, see Title 5 California Code of Regulations, §80125.

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## THE WAIVER PROCESS

As of July 1, 2006 Commission staff has the authority to evaluate and issue or deny waivers based on the established waiver criteria. Waiver requests must be submitted in a timely manner. Refer to the “Waiver Timeline Chart” on page 14 for details.

The Commission will continue to require employing agencies to present waiver requests to their governing boards for approval. The agenda must be an action item and must list the name of the applicant, the specific assignment, including subject and grade level, and the fact that the applicant will be employed on a waiver.

For counties, state agencies, nonpublic or nonsectarian schools, a public notice must be posted at least 72 hours before the position is filled. The public notice should be posted in a place where all interested parties are notified and must list the name of the applicant, the specific assignment, including subject and grade level, and the fact that the applicant will be employed on a waiver.

By submitting the waiver request, the employer certifies that a reasonable effort to recruit a fully-prepared teacher for the assignment was made. The list below shows the order of preference when hiring:

1. Teaching Credential
2. Internship Credential
3. Provisional Internship Permit (PIP)/Short-Term Staff Permit (STSP)
4. Waivers

**Waivers that have been granted or denied will be displayed on the Commission’s website under “Public Notices” at <http://www.ctc.ca.gov/notices/waivers.html>.**

### The Processing Procedure

- Waiver requests that are received within the ninety days submission timeframe that meet the waiver criteria will be granted.
- If the waiver request is received beyond ninety days from the requested issue date, the waiver request **will not** be evaluated and will be denied based upon late submission. The waiver request packet will be returned with a denial letter that explains the reason for denial. The employer shall remove the applicant from the assignment. **No re-evaluation request will be accepted for late submissions.** The employer may submit another waiver request form with appropriate fees for an evaluation and a revised issue date.
- If the waiver request form and supporting materials are incomplete, Commission staff will deny the waiver. The waiver request packet will be returned with a denial letter that explains the reason for denial. The employing agency will have thirty days to provide the required documentation for re-evaluation. If the resubmitted waiver request meets the waiver criteria, the waiver will be granted. If the employing agency re-submits the required documentation beyond the thirty days, staff will not evaluate and a final denial notice will be mailed.

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- If an evaluation of the waiver request determines that the applicant qualifies for a permit or credential in the same authorization, the waiver request packet will be returned with instructions to apply for the appropriate permit or credential. A waiver will not be issued if the applicant qualifies for a permit or credential in the same authorization.
  - If the waiver request does not meet the established criteria it will be denied. The waiver request packet will be returned with a denial letter that explains the reason for denial. The employer will have an opportunity to request re-evaluation if there is new pertinent information that was not included previously and that addresses the concerns expressed in the denial letter. This new information cannot be gained after the requested issue date of the waiver request.

All requests for re-evaluation must be received by the Commission within thirty days as expressed in the denial letter. To qualify for the waiver, the candidate must meet the waiver criteria at the time of the original request. If a re-evaluation was re-submitted on time and it meets the waiver criteria Commission staff will grant the waiver.

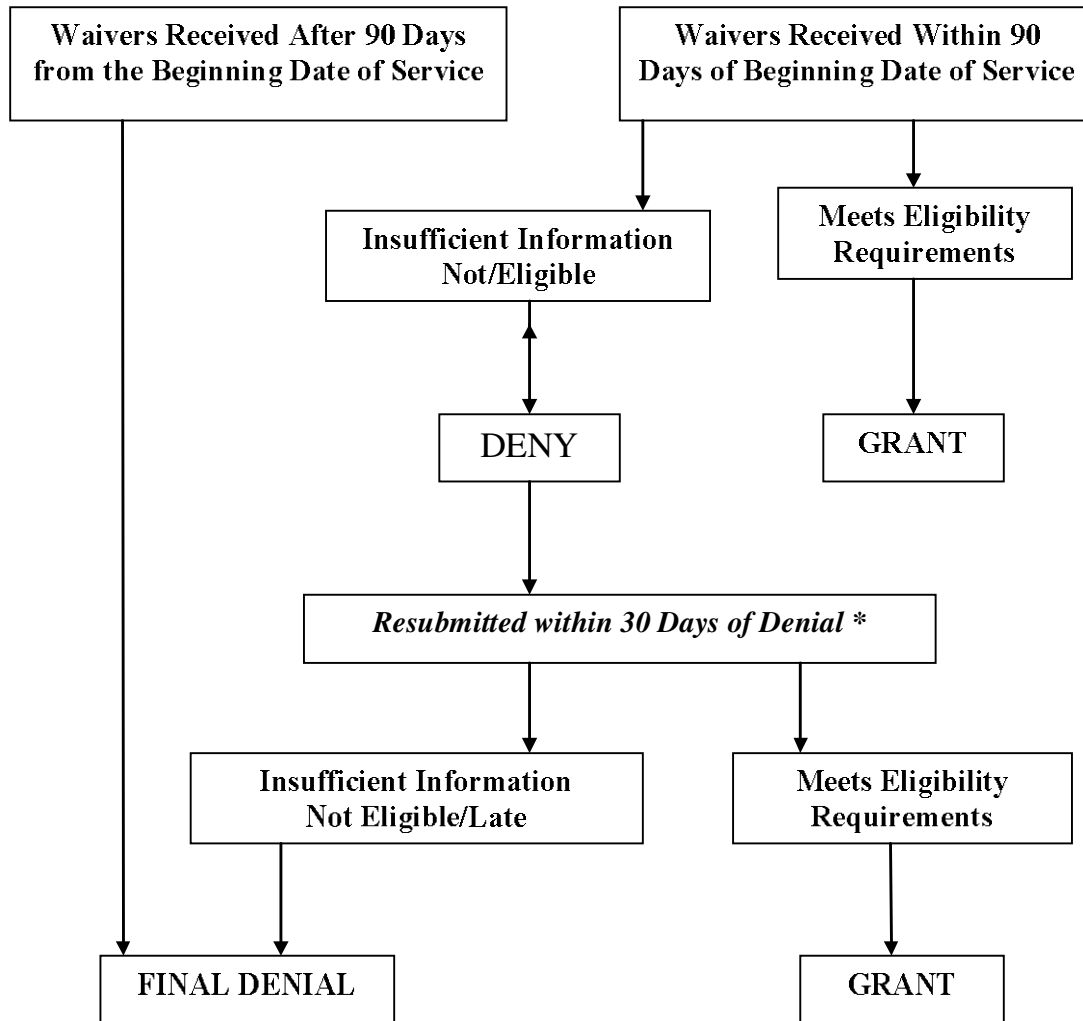
If the new information does not meet the waiver criteria, a final denial letter with an explanation of the denial, will be sent with the original waiver packet. After receiving the notice, the employer shall remove the applicant from the assignment. There are no re-evaluations after a final denial letter. Refer to Coded Correspondence 07-05 for details at the following link: <http://www.ctc.ca.gov/notices/coded/0705/0705.pdf>

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## WAIVER TIMELINE CHART

\* Must be information not previously submitted and/or not previously available



that addresses the issues listed on the denial letter.

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## HOW TO COMPLETE FORMS

The Variable-Term Waiver Form (WV1) may be found at the following link:

<http://www.ctc.ca.gov/credentials/cig2/CIG-LEAFLETS/wv1.pdf>

Waiver requests must be prepared and submitted by the employing agency only and should be typewritten or computer generated. All materials must be clear enough to photocopy and one waiver request form must be used for each credential type waiver request per applicant. All sections of the Variable Waiver Form WV1 are described and explained below and corresponds to the number on the form.

**All sections applicable to the requested waiver type must be completed.**

### 1. EMPLOYING AGENCY

✓ *Employing Agency*

Print the full name and complete address of the employing agency. For a Non-Public School/Non-Public Agency (NPS/NPA) entity, please list the county code. If the county code is unknown, write the county name. All NPS/NPA must be Department of Education-approved.

✓ *County/District Code (Middle Box):*

For county offices and school districts, enter the two digit county code and the five digit California District Services (CDS) code. For NPS/NPA, only enter the county code or name.

✓ *Contact Person (Third Box):*

Enter the name, telephone number (including the extension), fax number and email address of the agency contact person responsible for processing the waiver request.

### 2. APPLICANT INFORMATION

✓ *Personal Information:*

Enter the applicant's social security number, full legal name, former names, date of birth, and mailing address.

✓ *Credential Needed for Waiver:*

List the title and subject area of the credential for the waiver.

For example, single subject teaching credential in mathematics, or Pupil Personnel Services: Counseling, or Crosscultural, Language & Academic Development (CLAD) Certificate for the English Learner (EL) authorization.

✓ *Assignment:*

List the specific position and grade level for the assignment. For example, sixth grade bilingual classroom, Education Specialist – mild moderate disabilities, etc.)

### 3. EDUCATION CODE OR TITLE 5 SECTION TO BE WAIVED

- ✓ Enter the appropriate Education Code or the Title 5 Section that pertains to the waiver request. Refer to page 33 for a list of Education Codes and Title 5 Sections that pertain to waivers.

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4. **EFFECTIVE DATES**

- ✓ Enter the requested beginning and ending effective dates of your waiver request. A Variable Term Waiver may be issued for any length of time depending upon the circumstances; however, most waivers are issued for one year or less during which period applicants are expected to verify progress toward their credential goal. The issuance date is the beginning date of service and, the expiration date is the last day the waiver will be needed because the term/school year will end or if the requirements for the credential will be completed.

**If the waiver request is for a period longer than one year, a detailed explanation of the additional time needed must be provided.**

Form WV1 has a space to list the effective beginning and ending dates of the waiver. At the bottom of the form is another space to list the ending date of the school term, track or year. It is important to complete this area to verify the end date of school year.

- ✓ Enter the ending date of the school year.

5. **STATEWIDE HIGH INCIDENCE AREA WAIVER REQUESTS:**

Complete this section if the request is for employment in a high incidence area.

- ✓ *Check the appropriate box for the credential*
- ✓ *Check the appropriate box to show recruitment efforts*
- ✓ *Write an explanation providing details of why this individual is the best candidate for the job.*

6. **NON-STATEWIDE LOW INCIDENCE AREAS WAIVER REQUESTS**

Complete this section if your request is in the low incidence areas by checking the appropriate boxes.

***A low incidence area request must include copies of recruitment efforts.***

- a. ✓ Indicate the low incidence areas for the assignment
- b. ✓ Indicate what was done this year to locate and recruit individuals to fill this position.  
Copies of documentation must be attached.
  - ✓ The employer must submit verification documentation in three recruitment areas:
    - Distribution of job announcements
    - IHE placement Centers contacts
    - Internet: Ed Join
- c. ✓ Provide detailed information on the results of recruitment efforts. Answer each of the following questions and complete all blanks as indicated on the form.
- d. ✓ Provide the specific employment criteria for the position. List the special skills and knowledge required to perform in this position.
- e. ✓ If this is an initial waiver request, explain what makes the applicant the best candidate. Provide an explanation and attach supporting documentation.

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7. **REQUIREMENTS AND TARGET COMPLETION DATES FOR REACHING CREDENTIAL GOAL**
    - ✓ List requirements needed for the credential in the boxes provided and provide a projected completion date.
  8. **LIST THE NAME AND POSITION OF THE PERSON ASSIGNED TO SUPPORT AND ASSIST THE APPLICANT DURING THE TERM OF THE WAIVER**
    - ✓ Write the name and title of person assigned to assist the candidate.
  9. **SUBSEQUENT WAIVER REQUEST**
    - ✓ If this is a subsequent waiver request, a copy of the applicant's personnel evaluation must be attached.
  10. **IS THIS EMPLOYING AGENCY GEOGRAPHICALLY ISOLATED?**
    - ✓ Check the appropriate box.
  11. **PROFESSIONAL CONDUCT QUESTIONS**
    - ✓ Answer all questions. If you have a "yes" answer, you must include an explanation on a separate sheet of paper. The waiver request will be returned if this section is not completed.
  12. **PUBLIC NOTICE – CHECK THE BOX THAT APPLIES**
    - ✓ Public School Districts – Verify and submit supporting documentation as instructed in the first box.
    - ✓ County Offices, State Agencies, Non-public nonsectarian school or agencies – verify and submit supporting documentation as instructed in second box.
  13. **APPLICANT'S CERTIFICATION**
    - ✓ Applicant must sign and date this section. The waiver request will be returned if this section is not signed.
  14. **EMPLOYING AGENCY CERTIFICATION**
    - ✓ Responsible parties as indicated on form must sign and date this section. The waiver request will be returned for completion if this section is not signed.



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## Instructions for completing the Variable Term Waiver Request For 30-Day Substitute California Basic Educational Skills Test form (Form WV1SUB)

Form WV1SUB may be found at the following link:

<http://www.ctc.ca.gov/credentials/cig2/CIG-LEAFLETS/wv1sub.pdf>

Waiver requests must be prepared and submitted by the employing agency, and should be typewritten or computer generated. All materials must be clear enough to photocopy. **Form WV1SUB may be used for first time Emergency 30-Day Substitute CBEST waivers only. Subsequent Emergency 30-Day Substitute CBEST waivers and all other types of variable term waivers must be submitted on form WV1.** You must use one waiver request form for each waiver request per applicant. All sections of Form WV1SUB are described and explained below as numbered on the form.

### 1. EMPLOYING AGENCY

- ✓ Employing Agency  
Print the full name and complete address of the employing agency. For NPS/NPAs please list your county code. If you do not know the county code, write the county name.
- ✓ County/District Code (Middle Box):  
For county offices and school districts, enter the two digit county code and the five digit district CDS code. If you do not know your district codes, be sure to write your agency name in full for reference. For NPS/NPA, only enter the county code or name.
- ✓ Contact Person (Third Box):  
Enter the name, telephone number (including the extension), fax number and email address of the agency contact person responsible for processing the waiver request.

### 2. APPLICANT INFORMATION

- ✓ Enter the applicant's social security number, full legal name, former names, date of birth, and mailing address. Assignment is already filled as Emergency 30-Day Substitute Teacher. Enter any credentials or permits held.  
For example:  
California Credential or Permit Held (if any): Child Development Permit  
Assignment: 30 Day Substitute Teacher

### 3. EDUCATION CODE OR TITLE 5 SECTION TO BE WAIVED

This section is already filled with the appropriate code: EC 44252(b)

### 4. EFFECTIVE DATES

- ✓ Enter the beginning and ending effective dates of your waiver request. The beginning and ending dates cannot exceed one calendar year.

### 5. PROFESSIONAL CONDUCT QUESTIONS

- ✓ Answer all questions. If you have a "yes" answer, you must include an explanation on a separate sheet of paper. The waiver request will be returned if this section is not signed.

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- 
6. **PUBLIC NOTICE (Check the Box That Applies)**
    - ✓ Public School Districts – Verify and submit supporting documentation as instructed in the first box.
    - ✓ County Offices, State Agencies, Non public nonsectarian school or agencies- Verify and submit supporting documentation as instructed in the second box.
  
  7. **APPLICANT’S CERTIFICATION**
    - ✓ Applicant must sign and date this section. The waiver request will be returned if this section is not signed.
  
  8. **EMPLOYING AGENCY CERTIFICATION**
    - ✓ Responsible parties as indicated on the form must sign and date this section. The waiver request will be returned if this section is not signed.

***Attachments:***

Verify that all the listed items are attached.

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**CHECK LIST  
BEFORE SUBMITTING WAIVER REQUESTS**

**Include the following for initial waiver requests**

- Complete all appropriate sections of the Waiver form WV1, answer all Professional Conduct questions and include original signatures as indicated on form
- Attach copy of the public notice
- Attach copies of all the applicant's official transcripts
- Attach copies of basic skills requirement (BSR) exams or other applicable score reports
- Include all necessary documentation to verify recruitment efforts as indicated on the waiver request WV1 form
- Include the current waiver processing fee unless the applicant qualifies for the waiver fee exemption. Refer to Fee Schedule on page 21 for details on exemptions.
- All waiver applicants **must** have fingerprint clearance on file with the Commission. If the applicant does not have fingerprints on file, complete the LiveScan process and include a copy of the LiveScan receipt.

**Include the following for all Subsequent Waiver Requests**

- Complete all appropriate sections of the Variable Waiver Request Form WV1. Answer all Professional Conduct questions and include original signatures as indicated on form.
- Attach a copy of public notice
- Attach a copy of the personnel evaluation from a direct supervisor. Subsequent Emergency 30-Day Substitute waivers do not require detailed evaluations.
- Attach copies of all official transcripts or grade reports showing courses completed since the issuance of the previous waiver
- Include letters from colleges or universities verifying the applicant's admittance to the appropriate program for service credentials
- Attach copies of the BSR exams score or other applicable score reports
- Include information regarding efforts the applicant has made to improve his or her basic skills requirement scores for subsequent BSR waivers. Such information may include evidence of tutoring, in service training or college coursework.
- Include the current waiver processing fee unless the applicant qualifies for the waiver fee exemption. Refer to the fee schedule on page 21 for exemption details.

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## Fee Schedule for Waiver Requests

All individuals **must** have fingerprints on file with the Commission

For the first time applicant, submit the appropriate waiver request form (WV1 for all waiver types or WV1SUB for first time Emergency 30-Day Substitute waivers) with the appropriate fees and a Request for LiveScan Services (Form 41-LS) receipt. All checks and money orders must be made payable to the Commission on Teacher Credentialing or CTC.

**Waiver Processing Fee**..... \$70

**Added Restrictions** (Adding another employer to a valid waiver)

All waiver types ..... \$70

Emergency 30-Day Substitute Permits .....No fee

### EXEMPTION FROM WAIVER FEE

Individuals holding a valid non-emergency teaching or service credential based on a baccalaureate degree from a regionally accredited institution and completion of a professional preparation program that include student teaching or practicum are exempt from the fee.

Documents that **DO NOT** qualify for the exemption include:

- ✓ Provisional Internship Permits
- ✓ Short-Term Staff Permits
- ✓ Designated Subjects Teaching Credentials
- ✓ Child Development Permits
- ✓ Emergency 30-Day Substitute Permits

**APPLICATION FEES, INCLUDING WAIVER PROCESSING FEES, ARE  
EARNED UPON RECEIPT AND ARE NOT REFUNDABLE.**

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*Sample Reject Letter*



**Commission on Teacher Credentialing**

1900 Capitol Avenue Sacramento, CA 95811-4213

[www.ctc.ca.gov](http://www.ctc.ca.gov)

*Certification, Assignment and Waivers Division*

Date: mm/dd/yyyy

Dear Applicant:

*The information listed below is needed before this request can be reviewed by the Appeals and Waivers Committee of the Commission. **Return this letter (and any materials that may be attached) with the requested additional information by the date indicated below.** A delay could make the applicant named above ineligible to begin service or force you to terminate the individual's service:*

1. All waiver requests must include verification that a notice of intent to employ the applicant by name in this position has been made public. Enclose a copy of the agenda item presented to the governing board (school district) or a copy of the announcement posted 72 hours before the waiver was requested (county or nonpublic school) and check the correct box in the public notice section of the waiver request form.
2. YOU MUST RESUBMIT THIS ENTIRE WAIVER REQUEST PACKET WITH THE NEEDED INFORMATION AS SOON AS POSSIBLE, BUT NO LATER THAN MM/DD/YYYY.

*If you have any questions about the requested information, please contact this office at (916) 323-7136 between the hours of 8:00 A.M. and 5:00 P.M. Monday through Friday.*

Sincerely,

Certification, Assignments and Waivers Division

*Ensuring Educator Excellence*

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## *Sample of Final Denial Letter*



Commission on Teacher Credentialing  
1900 Capitol Avenue Sacramento, CA 95811-4213 Fax: 916-327-3166 [www.ctc.ca.gov](http://www.ctc.ca.gov)  
*Certification, Assignment and Waivers Division*

DATE:

RE: XXXXXXXXXXXX

Denial of Waiver Request Mailed to:

UNIFIED SCHOOL DISTRICT  
PERSONNEL SERVICES  
STREET  
CITY, CA ZIP

RE: APPLICANT  
Goal: Single Subject Teaching Credential: Science: Biological Sciences

The Commission on Teacher Credentialing has denied the waiver request that you submitted on behalf of the individual named above for the following reason(s):

1. There is not enough academic background in biology.

Effective immediately, you must remove the individual from the position for which the waiver request was submitted.

You may ask for reconsideration of this waiver request by returning the waiver packet with new information via postal mail. The new information must be received within forty-five (45) days, and must directly address the reason that the waiver request is being denied and contain information that was not available at the time of the original request (Title 5 §80125(e)(2)(A) CCR). If the information submitted does not meet this regulatory requirement, no further waiver review will be granted.

If you have questions concerning the denial process, you may contact the Waiver Unit by phone at (916) 323-7136, or by email at [Waivers@ctc.ca.gov](mailto:Waivers@ctc.ca.gov).

Prepared by: XXX

cc: COUNTY OFFICE OF EDUCATION

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*Sample of Final Denial Letter*



Commission on Teacher Credentialing  
1900 Capitol Avenue Sacramento, CA 95811 Fax: 916-327-3166 www.ctc.ca.gov  
*Certification, Assignment and Waivers Division*

Date

Agency Name  
Address  
City, CA Zip

Re: APPLICANT

RE: XXXXXXXXXXXX

Dear Mr/Ms. Employer:

The Commission has denied your request for reconsideration based on the new material(s) submitted not meeting the regulatory requirement [(Title 5 Section 80125(e)(2)(A) CCR).]

**EFFECTIVE IMMEDIATELY, YOU MUST REMOVE THE INDIVIDUAL FROM THE POSITION FOR WHICH THE WAIVER REQUEST WAS SUBMITTED.**

If you have questions concerning the denial process, you may contact the Waiver Unit by phone at (916) 323-7136, or by email at [Waivers@ctc.ca.gov](mailto:Waivers@ctc.ca.gov).

Prepared by: XXX

cc: COUNTY OFFICE OF EDUCATION

## CREDENTIAL WAIVER REQUESTS -- CHART OF CRITERIA

Waiver requests are first reviewed to see if they meet the Commission approved **GENERAL CRITERIA**:

- Recruitment verified
- Credential goal in high incidence areas
- Explanation of why person is the best qualified for the position
- Not just correcting a misassignment
- Person will have ongoing support and assistance by the district

In addition, requests for services credentials are reviewed for:

- The position is in a low incidence area
- The person has special skills or experience in the area
- The person is enrolled in the appropriate program

In addition, each evaluation for a subsequent waivers includes the following:

- Employing agency's continuing need
- Evaluation of the applicant's performance
- Support the employer provided to the applicant
- Applicant's efforts to either pass an examination or take appropriate course work
- How far the applicant is from the credential goal
- Extenuating/extraordinary/unanticipated circumstances

WAIVER TYPE	FIRST TIME		SUBSEQUENT		Third CBEST Waiver
	GRANT	DENIAL	GRANT	DENIAL	
<p><b>CBEST (Basic Skills Requirement)</b></p> <p>Applicant who held a One-Year Nonrenewable/or preliminary credential based on out of state or out of country program must meet same criteria but gets only two years on the BSR waiver.</p>	<ul style="list-style-type: none"> <li>▶ meets all general criteria &amp;</li> <li>▶ no opportunity to take CBEST or passed one or more sections &amp;</li> <li>▶ employer will provide access to remediation &amp;</li> <li>▶ if taken, evidence of plan to remediate &amp;</li> <li>▶ if taken for single subject in English, passed reading &amp; writing sections or if taken for single subject in Math or Science, passed math section</li> </ul> <p><b>Condition:</b> Take CBEST twice and pass one section</p>	<ul style="list-style-type: none"> <li>▶ single subject in math or science failed math section or</li> <li>▶ single subject in English failed reading and writing sections</li> </ul>	<ul style="list-style-type: none"> <li>▶ meets all general criteria &amp;</li> <li>▶ justification, support and public notice form employer &amp;</li> <li>▶ personnel evaluation &amp;</li> <li>▶ took test twice and passed one section since last waiver issued &amp;</li> <li>▶ evidence of remediation &amp;</li> <li>▶ employer will provide access to remediation</li> </ul>	<ul style="list-style-type: none"> <li>▶ did not take test twice regardless of extenuating circumstances or</li> <li>▶ did not pass at least one section or</li> <li>▶ for single subject in math or science failed math section or for single subject in English failed reading and/or writing sections.</li> </ul>	<p>For third waiver the criteria is the same as for the second, but all third CBEST waivers are approved with conditions that say: NO SUBSEQUENT WAIVER.</p> <p><b>No more than three years to pass CBEST (Basic Skills Requirement)</b></p>



WAIVER TYPE	FIRST TIME		SUBSEQUENT	
	GRANT	DENIAL	GRANT	DENIAL
<p><b>PROGRAM</b></p> <p>This includes needing subject matter coursework or exam for multiple or single subjects teaching permits</p>	<ul style="list-style-type: none"> <li>▶ meets all general criteria</li> <li>▶ not a state-wide high incidence area</li> <li>▶ low incidence areas of Administrative Service, Pupil Personnel Services - need &amp; qualifications well justified by employer</li> </ul> <p><b>Condition:</b> Enrollment in credential program and 12 semester units of coursework completed or Coursework units needed to qualify for single or multiple subject teaching permits</p>	<ul style="list-style-type: none"> <li>▶ did not meet all general criteria or</li> <li>▶ denied an appeal because did not complete renewal requirements or</li> <li>▶ validation of service denied for this position or</li> <li>▶ identified as misassigned and no other attempt made to correct the problem</li> </ul>	<ul style="list-style-type: none"> <li>▶ justification, support and public notice/employer &amp; personnel evaluation</li> </ul> <p><i>Services</i></p> <ul style="list-style-type: none"> <li>▶ letter from IHE verifying enrollment and describing status &amp; completed 12 semester units for program</li> </ul> <p><i>Teaching/Emergency</i></p> <ul style="list-style-type: none"> <li>▶ 6 semester units toward subject matter</li> </ul> <p><b>Note:</b> For second waiver of program only, may have enrollment or course work; all subsequent waivers need both.</p>	<ul style="list-style-type: none"> <li>▶ did not enroll in a program or complete any coursework and has no extenuating circumstances or</li> <li>▶ completed fewer than 12 semester units for program</li> </ul>
WAIVER TYPE	FIRST TIME		SUBSEQUENT	
<p><b>CBEST (Basic Skills Requirement) &amp; PROGRAM</b></p> <p>If waiving CBEST and program, the CBEST conditions must be met first</p>	<ul style="list-style-type: none"> <li>▶ same as initial CBEST</li> </ul>	<ul style="list-style-type: none"> <li>▶ same as initial CBEST</li> </ul>	<ul style="list-style-type: none"> <li>▶ same as initial CBEST plus 3 units</li> </ul>	<ul style="list-style-type: none"> <li>▶ did neither CBEST nor course work &amp; no extenuating circumstances or</li> <li>▶ completed fewer than 12 semester units for program</li> </ul>

TYPE OF WAIVER	FIRST TIME		SUBSEQUENT		Note
	GRANT	DENIAL	GRANT	DENIAL	
EXPERIENCE	<ul style="list-style-type: none"> <li>▶ meets all general criteria</li> <li>▶ has letter from IHE describing status as needing only experience to qualify for credential goal</li> </ul>	N/A	<ul style="list-style-type: none"> <li>▶ completed one full year of experience required for credential goal</li> </ul>	<ul style="list-style-type: none"> <li>▶ did not complete any experience toward credential goal &amp; no extenuating circumstances</li> </ul>	<p>For Administrative Services, four summers equal one year</p> <p>For Resource Specialist, two summers equal one semester in regular classroom</p> <p>Can also accumulate part-time experience</p>

**EACH WAIVER REQUEST THAT DOES NOT SUBSTANTIALLY MEET THE CRITERIA OUTLINED ABOVE MAY BE DENIED BY THE COMMISSION**

The Commission reserves the right to review a subsequent waiver request, even when the previous waiver indicated that the Commission would not approve a subsequent waiver. Subsequent waivers may be considered by the Commission when the following apply:

- The employing agency has completed the waiver request form, including a persuasive justification, evidence of support of the applicant, and verification of public notice.
- The applicant has received a personnel evaluation or written confirmation (Emergency 30-Day Substitute Permit only) by a supervising administrator that he or she has performed satisfactorily during the waiver period.
- The applicant has failed to meet any one or all of the specified conditions, but offers verification of extenuating circumstances, such as are accepted for a credential appeal (e.g., serious illness of self or close family member).

## CONTACTS AND REFERENCES

### Contacts

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*Waiver Mailing Address:*  
*Attention: Waiver Unit*  
*1900 Capitol Avenue*  
*Sacramento, CA 95811-4213*

*Email:*  
[waivers@ctc.ca.gov](mailto:waivers@ctc.ca.gov)

*Waiver Message Center:*  
*(916) 323-7136*

*Fax for Waivers Only:*  
*(916) 322-0048*

### References

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*World Wide Web Page*  
[www.ctc.ca.gov](http://www.ctc.ca.gov)

*Credential Information Guide*  
[www.ctc.ca.gov/credentials/cig2/cig\\_toc.html](http://www.ctc.ca.gov/credentials/cig2/cig_toc.html)  
*User Name: cig2011*  
*Password: ctcguide*

*CCAC Waiver Workshop Presentation*  
<http://www.ctc.ca.gov/credentials/cig2/WORKSHOP/CCAC-2009.pdf>

*Public Notice of Waivers Granted or Denied*  
<http://www.ctc.ca.gov/notices/default.html>

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## SHORT-TERM WAIVERS

Short-Term Waivers authorize local employing agencies one semester or less to address unanticipated, immediate, short-term organizational needs by assigning teachers that consent to teach outside of their credential authorization.

This option is only available for individuals who hold a valid teaching credential based upon completion of a bachelor's degree and teacher preparation program which included student teaching.

Employing agencies may grant a Short-Term Waiver without prior approval by the Commission, provided that it is issued one time only for any individual and one time only for a given class.

All school districts should report the use of Short-Term Waivers to their county offices of education. **It is not necessary for districts to submit information regarding Short Term Waivers directly to the Commission.**

The district must submit the information to their county office on the following form (page 30) or on a form approved by the county. Please submit the report even if the district did not employ anyone on a Short-Term Waiver. The county office of education submits information regarding Short-Term Waivers to the Commission with its annual Assignment Monitoring and Review Report. The Local Approval of Short-Term Waiver form is on the following page.



**LOCAL APPROVAL OF SHORT-TERM WAIVER**

(To be kept on file in the district)

Employing agencies may grant a short-term waiver as described under Title 5 §80120-80123, without prior approval by the Commission provided that a short-term waiver is issued one time only for any one credentialed teacher and one time only for a given classroom. The information required under §80122 for this type of waiver shall be forwarded to the County Office of Education pursuant to Education Code §44258.9. The Commission may rescind the authority of any employing agency to grant a short-term waiver upon a finding that the agency has intentionally violated any provision of §80120-80123 California Code of Regulations. Short-term waivers are valid for no more than one semester. Each County Office of Education should include information on short-term waivers in their annual Assignment Monitoring Report.

<b>1. Employing Agency</b>	<b>CDS Code</b>	<b>Contact Person</b>  <b>Telephone Number</b>
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**2. Section to be waived:** \_\_\_\_\_  
 Type the text of pertinent sentence of the law.

**3. Purpose of waiver. Include name(s) of candidate(s) appropriate.**

**4. Proposed Solution and Justification.** Describe how waiver request will remedy the situation, give rationale for request and describe any negative effect(s) that are likely to occur if the request is not granted.

**5. Name of candidate(s) Date of Birth Social Security Numbers**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

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**6. Effective period of waiver**

\_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_

**7. List current California credentials held and expiration date for each.**

**8. SELPA Certification.** If this waiver is for special education personnel the Special Education Local Plan Area (SELPA) must be consulted prior to approval of a waiver.

SELPA approval date: \_\_\_\_\_

SELPA Administrator \_\_\_\_\_  
(Signature Required)

Telephone Number \_\_\_\_\_

**9. District Certification**

No other Short-Term Waiver has been approved for the individual(s) listed in this document.

I certify under penalty of perjury that the information provided in this document is correct and complete.

Signature: \_\_\_\_\_  
(Superintendent or designee)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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## Appendix A

### *FREQUENTLY ASKED QUESTIONS*

**1. *Can we request a waiver for a Child Development Permit?***

The Commission does not issue waivers for Child Development Permits. Please refer to the Department of Education at: (916) 319-0800 or <http://www.cde.ca.gov>

**2. *Where can I find the current waiver request forms?***

The waiver forms are available on the Credential Information Guide (CIG) under Leaflets and Forms. The waiver forms are toward the bottom of the list. See links below:

<http://www.ctc.ca.gov/credentials/cig2/CIG-LEAFLETS/wv1.pdf>

<http://www.ctc.ca.gov/credentials/cig2/CIG-LEAFLETS/wv1sub.pdf>

**3. *What if an applicant gained a minimum passing score in one section with the first attempt at the CBEST, does he/she need to take the other sections one more time for a subsequent waiver?***

Yes. Subsequent waiver conditions are to attempt all sections of the CBEST not previously passed twice and gain a passing score of 41 on at least one section. Keep in mind a minimum score of 37 while may be considered passing for credentialing purposes, is not acceptable. For waiver purposes a passage score must be at least 41.

**4. *What if an applicant passed the same section twice with a score of 41 or higher, can that be counted as having a passing score for each subsequent waiver?***

No, the applicant must take the exam twice and gain a passing score for a new section on each subsequent waiver to verify progress toward passing the entire exam. Previous passing scores do not count as a new attempt to pass another section and does not meet the subsequent waiver conditions. No one can have more than three BSR waivers.

**5. *Regarding added restrictions to Emergency 30-Day Substitute Permit BSR waivers, can the expiration date exceed the original waiver by just a few days as our school year ends on a later date?***

No, in order to qualify as an added restriction, the expiration date must end on the original approved waiver date. If the requested expiration date exceeds the valid waiver on file, it may be considered a subsequent waiver request and subsequent waiver conditions would need to be met. If there is a request to add a restriction, it must be during the period of the original waiver request.

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6. ***On Clinical Rehabilitative Services or Speech-Language Pathology Services, what if the applicant was unable to be accepted into the program, how can subsequent waiver conditions be met?***

For areas with limited programs, the Commission may accept verification of enrollment attempts or progress even though the waiver conditions require completed coursework.

7. ***If my applicant already used the PIP and STSP options but still has not completed requirements to be accepted into an intern program, can the waiver be my last option?***

The waiver is not an option for those who academically qualified for a permit or credential in the same authorization. Failure to complete requirements on any permit or credential is not a basis for a waiver.

8. ***If I submitted a waiver and later found out that the applicant does not qualify for the waiver, can I use the same fee toward another permit?***

No. Fees are considered earned upon evaluation and receipt. If you did not qualify, you cannot use the same fee toward another waiver, permit or credential.

9. ***How can I fulfill the recruitment verification section if I apply for an English Learner authorization for one of my already employed teachers? Must I complete that section on the waiver form?***

Yes. All sections of the waiver form must be completed. Please use your most current recruitment information on that specific teacher and include a note to explain.

10. ***Can I use other BSR exams to show progress with basic skills for a subsequent waiver?***

No. For waivers, we will only accept progress on the CBEST exam to meet subsequent waiver conditions.

11. ***I have multiple waivers to submit. Can I include one agenda item for all of them or do I need to make copies of the agenda item for each applicant?***

Please include a copy of the public notice or agenda item for each individual waiver packet. You do not need to include all pages of the agenda; just the page that pertains to the waiver subject. Since waivers are distributed to general staff for processing, there is less chance that paperwork will be separated and your waiver is rejected for no public notice.



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- 12. *We have a Special Education teacher who holds a mild moderate authorization but we need her to cover the area of autism as well; can we apply for a waiver?***

Your teacher may qualify for the new Special Education Limited Assignment Permit. See the link below for requirements on the Special Education Limited Assignment Permit: <http://www.ctc.ca.gov/credentials/leaflets/cl889.pdf>. If a teacher cannot qualify for the limited assignment, she may qualify for the STSP or maybe an intern in the new disability area. Keep in mind, if a candidate can academically qualify for any permit or credential, a waiver cannot be an option. Currently the only exception is for the ECSE authorization; if these candidates cannot qualify for the limited assignments, you may apply for a waiver in one of the new added authorization in special education disability areas. However, this waiver option is for a limited time only while programs are being fully developed and accessible. Please see [CIA 10-02](#) for details.

- 13. *We have a teacher that has been on a waiver for years and has not completed the program. We don't want to keep her in the classroom but she claims she qualifies since she completed the units. Do we have to apply for the subsequent waiver for her?***

No. Waivers are only available at the request of the employer. If the employer does not support hiring on a waiver, the candidate has no option for submitting a waiver on his own.

- 14. *It is really hard to find a Speech Language and Pathology credentialed person. We have someone who is almost done with the Speech Language and Pathology program but she will not be recommended for the credential until next school year. Could we put her on a waiver for just one school year?***

Yes. Because this is a shortage area, a suitable person so close to completing the program is ideal for the assignment. Since there are no emergency permits for this category, a waiver can be requested.

- 15. *What Ed Code do I use when requesting a CCSD waiver for the Career Technology Education Credential holders?***

Ed Code 44253.11 pertains to the CCSD and the Career Technology Education Credential holders. Please see page 35 for a list of Ed Codes appropriate to waivers.

- 16. *One of my teachers has an autistic student in her class so she needs the appropriate authorization. However, she does not qualify for the limited assignment. However, she has not yet used her STSP. My question is must I use the STSP or can I request a waiver? I fear she may not be able to complete the program just within that one year STSP. She is an excellent teacher so I don't want to be left without any options.***

Yes. You may use the waiver if your teacher does not qualify for the limited assignment. Please keep in mind this waiver request will only be for one year. The Commission expects the teacher to gain the experience required to be able to move on to the limited assignment after the waiver.

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## Appendix B

### List of Education Codes and Title 5 Sections That May Be Waived

<u>Section Number</u>	<u>Brief Description of Section</u>
EC §44252(b)	BSR (Basic Skills Requirement) for a Credential or Permit
T5 §80021.1	Requirements for Initial Issuance of the Provisional Internship Permit (Single Subject, Multiple Subject, Education Specialist)
EC §44265	Professional Preparation Program for a Specialist Instruction Credential in Special Education, Reading, etc
EC §44268	Professional Preparation Program for the Clinical or Rehabilitative Services Credential in Audiology and Orientation and Mobility
EC §44265.3	Professional Preparation Program for the Speech-Language Pathology Services Credential
T5 §80046.1	Professional Preparation Program for an Adapted Physical Education Credential
EC §44266	Professional Preparation Program for a Pupil Personnel Services Credential
EC §44269	Professional Preparation Program for a Library Media Teacher Services Credential
EC §44270	Professional Preparation Program for a Preliminary Administrative Services Credential
EC §44253.3	Certificate or Credential to Provide Instruction to Limited English Proficient (LEP) Students
EC §44253.11	Certificate of Completion on Staff Development to provide instruction to English Learners for holders of Designated Subjects, Career Technology Education Teaching Credentials
EC 44260(a)	Experience Requirement for the Designated Subjects Vocational
EC 44260.2(a)	Experience Requirement for the Designated Subjects Adult Education Teaching Credential
EC 44260.4	Course Work Requirement for Designated Subjects Credential in Driver's Education and Training

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## Appendix C

### PRECEDENTIAL DECISIONS

*Waiver criteria were established by the Commission based upon previous Precedential decisions. Today, Precedential decisions are still referenced when waiver requests are issued.*

#### **Precedential Decisions**

One of the Commission's strategic goals is to improve customer service to ensure that employing agencies and the Commission's customers obtain accurate guidance and consistency in the waiver process.

In June 1994, the Commission began issuing waivers. Procedures are in place to process each waiver as an individual decision by the Appeals and Waivers Committee. Under current law (Government Code §11425.60), an agency may designate as a precedent decision, a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. The agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update.

Publishing written Precedential decisions will help provide guidance for employing agencies. In this section you will find an index and the written decisions that have received approval by the Commission in general session.

The decisions will be referenced by staff while reviewing incoming waiver applications, and when working with employing agencies in both written and oral communications.

#### ***PRECEDENTIAL DECISIONS Annual Index Established 2000***

1. Precedential Decision CTC No. 1 (in RE: Paul Morsink) establishing the practice: An applicant must demonstrate a compelling educational need before the Commission will grant a waiver.
2. Precedential Decision CTC No. 2 (in RE: Rose M. Alcantara) establishing the practice: A three part test will be applied to applications for waivers when the applicant claims they have been unable to pass the CBEST due to a disability documented under the Americans with Disabilities Act.
3. Precedential Decision CTC No. 3 (in RE: Carole Marie Miller) establishing the practice: An individual on a variable term CBEST waiver must take the examination at least twice and obtain a passing score of 41 or higher on at least one section, prior to applying for a subsequent variable term CBEST waiver.

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4. Precedential Decision CTC No. 4 (in RE: Eddie Charles Conner) establishing the practice: An individual on a variable term CBEST waiver must make meaningful progress (as defined) towards the goal of ultimately passing the CBEST. This rule limits the issuance of a fourth CBEST waiver.
  5. Precedential Decision CTC No. 5 (in RE: Marta Yague) establishing the practice: The definition of a passing score on a single section of the CBEST, for purposes of securing from the Commission a subsequent variable term CBEST waiver, is a score of 41 points or higher.
  6. Precedential Decision CTC No. 6 (in RE: Horie Marleny Roberts) establishing the practice: Despite the change in the credential sought the general rule in Precedential Decision CTC No. 3 (in RE: Carole Marie Miller) still stands.
  7. Precedential Decision CTC No. 7 (in RE: Demeka Roshawn Phelps) establishing the practice: The Commission will not grant waivers for Class Size Reduction assignments unless the individual holds a credential from another state or another country or has completed a teacher preparation program in California.
  8. Precedential Decision CTC No. 8 (in RE: Anthony R. Russo) establishing the practice: Documentation needs to be submitted for services credential waivers regarding the status of an individual in the appropriate credential program and the anticipated completion date of the program.
  9. Precedential Decision CTC No. 9 (in RE: Leonard V. Greaney) establishing the practice: For non-state wide shortage area credentials sufficient documentation is needed attesting that no credentialed candidate(s) applied or explains why the credentialed candidate(s) did not meet the assignment criteria.
  10. Precedential Decision CTC No. 10 (in RE: Mary Lee Scott) establishing the practice: Documentation of recruitment efforts for positions in non-statewide shortage categories will be required.

Please see link below to Coded Correspondence 00-0021 for copies of the specific Precedential Decisions.

<http://www.ctc.ca.gov/notices/coded/2000/000021.pdf>

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## Appendix D

### DIVISION VIII OF TITLE 5 CALIFORNIA CODE OF REGULATIONS CREDENTIAL WAIVERS

#### **80120. Purpose and Categories of Waivers.**

The following categories of waivers will be considered under the provisions of Education Code Section 44225 (m):

(a) Short-Term Waivers: Waivers to give local agencies one semester or less to address unanticipated, immediate, short-term organizational needs by assigning teachers who hold a basic credential to teach outside of their credential authorization, with the teacher's consent.

(b) Variable Term Waivers: Waivers to provide applicants with additional time to complete the requirements for the credential that authorizes the service or to provide employing agencies time to fill the assignment with an individual who either holds an appropriate credential or qualifies under one of the available assignment options. This includes:

(1) Waivers to facilitate assignment in school programs addressing issues of educational reform;

(2) Waivers to employ or assign identified individuals when the employing agency finds there is an insufficient number of certificated persons who meet the specified employment criteria for the position;

(3) Waivers to temporarily exempt geographically isolated regions, which have severely limited ability to develop personnel, from specific state requirements for educator preparation, licensing or assignment; or

(4) Other temporary waivers granted at the discretion of the Commission.

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

*Waiver Request Guidebook for Employers*

#### **80121. General Provisions Governing Waivers.**

(a) Definition of Terms. Terms used in Sections 80120 through 80124, inclusive, shall have the following meanings.

(1) The term "employing agency" means the school district; county office of education; private school; nonpublic, nonsectarian school or agency as defined in Education Code Sections 56365 and 56366; or postsecondary institution that submits a waiver application.

(2) "Applicant" means the individual for whom a waiver application is submitted.

(3) "SELPA" means a Special Education Local Planning Area.

(4) A "short-term waiver" is a temporary waiver with a term of one semester or less as described under Section 80120(a).

(5) A "variable term waiver" is a temporary waiver with a term as specified by the Commission.

(b) Waiver Service Restrictions. Except as specified by the Commission, service authorized by a waiver shall be restricted to the employing agency that submitted the waiver application and to the assignment specified on the waiver document.

(c) Authorization to Apply for Waivers. Each application for a variable term waiver shall be submitted to the Commission on behalf of the individual identified in the application. The following may submit applications for variable term waivers:

(1) public school districts in California;

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(2) county offices of education or county superintendents of schools in California.

(3) postsecondary institutions; and

(4) private schools in California (in particular, nonpublic, nonsectarian schools and agencies as defined in Education Code Sections 56365 and 56366); and

(5) individuals

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

**§80122. Requirements for Variable Term Waivers.**

The application for a waiver document shall include all of the following:

(a) Name of Employing Agency. The application shall identify the employing agency seeking a waiver.

(b) Section Number. The application shall cite the specific Education Code or Title 5 section number(s) for which a waiver is being requested. In the case of waivers for the purpose of assignment in school programs addressing issues of educational reform, the application may instead identify the plan under which the reform will take place and, if applicable, the date when the plan was approved by the employing agency or the appropriate state agency, whichever came later.

(c) Reason for Waiver. The application shall summarize the reason the waiver is being requested, including, but not limited to, the specific employment criteria for the position that must be filled, a description of the efforts to locate and recruit individuals who hold the appropriate credential or who can be assigned under one of the available assignment options, and a description of the efforts the employing agency has made to establish alternative training options such as co-sponsoring internships with institutions of higher education or establishing a District Intern program.

(d) Proposed Solution. The application shall describe how the waiver will remedy the

*Waiver Request Guidebook for Employers*

situation, give the rationale for the request including what makes the applicant the best candidate to fill the position, and describe any negative effect(s) that are likely to occur if the request is not granted.

(e) Identification of Applicant. The application shall identify, by name, date of birth and Social Security number, the applicant for whom the waiver is requested.

(f) If the applicant does not already have fingerprint clearance on file with the Commission, the application must include two fingerprint cards and the completed Application for Character and Identification Clearance (form 41-CIC, rev 11-93), and appropriate fee(s).

(g) Requirements and Commitment. The request shall:

(1) list the requirement(s) that the applicant must complete to be eligible for the credential which authorizes the service being requested and the anticipated date(s) of completion of those Requirement(s),

(2) include a commitment by the applicant, in the form of an original signature, to pursue a course of study leading to full certification, with the understanding that no subsequent waiver will be requested should the applicant fail to verify completion of requirement(s) leading toward the credential or completion of the alternative requirement(s) specified in the employing agency's approved Plan to Develop Fully Qualified Educators,

(3) list the name and/or position of any person assigned to provide support and assistance to the applicant while he or she is serving on the waiver, and

(4) state that the employing agency has made a commitment to support and assist the applicant, as feasible, in completing the credentialing requirement(s).

(h) Additional Requirements

(1) To fill a position to serve special education students, the employing agency must include the SELPA among those receiving notice of the intent to request a waiver.

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(2) Waiver requests from geographically isolated regions with severely limited ability to develop personnel shall include a Plan to Develop Fully Qualified Educators pursuant to Section 80026.4, or an explanation as to why such a plan is not feasible.

(i) Effective Date and Proposed Duration. The application shall specify the beginning date of service on the waiver and the date when the waiver will cease to be needed.

(j) Public Notice. The request shall include verification that a notice of intent to employ the applicant in the position identified has been made public as follows:

(1) If the waiver request is being submitted by a public school district, it must include a copy of the agenda item presented to the governing board of the district in public meeting with a signed statement from the superintendent, or his or her designee, that the item was acted upon favorably. The agenda item must state the name of the applicant, the assignment in which the applicant will be employed including the subject(s) and grade level(s) that he or she will be teaching and that the applicant will be employed on the basis of a credential waiver.

(2) If the waiver request is being submitted by a county office of education, state operated school, or nonpublic, nonsectarian school or agency, it must include a dated copy of the notice that was posted at least 72 hours before the position was filled and a signed statement from the superintendent or administrator or his or her designee that there were no objections to the waiver request. The notice must state the name of the applicant, the assignment in which the applicant will be employed including the subject(s) and grade level(s) that he or she will be teaching and that the applicant will be employed on the basis of a credential waiver.

(k) Signatures. The application shall include the signature of the district personnel administrator or superintendent or the county superintendent if service will be provided in a county-operated school or the administrator of the state-operated school or of the nonpublic, nonsectarian school or agency, or his or her designee certifying that

the information provided is accurate and complete.

(l) Fee(s). Effective July 1, 1996, the waiver request shall include payment of the fee(s) required by Section 80487. Waiver requests for individuals who hold a valid non-emergency teaching credential based on possession of a baccalaureate degree from a regionally accredited institution and completion of a professional preparation program that includes student teaching shall include payment of the fee(s) required by all sub-sections of Section 80487, as appropriate, except 80487(a)(1).

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m) and 44235, Education Code.

### **80123. Requirements for Short-Term Waivers.**

(a) Local Approval of Short-Term Waivers. Employing agencies may grant a short-term waiver as described under Section 80120(a) without prior approval by the Commission, provided that a short-term waiver may be issued one time only for any individual, and one time only for a given class.

(b) Notification of County Offices. Pursuant to Education Code Section 44258.9, school districts using a short-term waiver shall provide the following information to the county office of education:

(1) Identification of the Applicant. The notification shall identify, by name and Social Security number, the individual for whom the short-term waiver was issued.

(2) Authorization and Assignment. The notification shall specify the credential that the individual holds and the assignment that the individual is filling as a result of the short-term waiver.

(3) Reason for Waiver. The notification shall explain the situation that led to the need for the short-term waiver.

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(4) Effective Date and Proposed Duration. The notification shall specify the beginning and ending dates of service on the waiver.

(5) Other. The county office of education may require other information as necessary.

(c) Notification of the Commission. Pursuant to Education Code Section 44258.9(d), county offices of education shall report the use of short-term waivers as described in subsection

(b) above in school districts and in county-operated schools to the Commission annually. In addition, the Commission may request information concerning the use of short-term waivers from other employing agencies.

(d) The Commission may rescind the authority of any employing agency to grant a short term waiver upon a finding that the agency has intentionally violated any provision of Sections 80120 or 80123.

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

**80124. Requirements for a Request for a Subsequent Variable Term Waivers for a Specific Applicant.**

(a) A request for a subsequent variable term waiver for a specific applicant in the same assignment shall meet the requirements of Section 80122 and must include verification that the applicant has fulfilled his or her commitment to pursue the completion of requirements leading toward the credential which authorizes the service.

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivisions (g) and (m), Education Code.

**§80125. Submitting Requests for Variable Term Waivers; Approvals and Denials.**

(a) Requests for variable term waivers must be submitted on a form developed and provided by the Commission and must include written documentation supporting the waiver, including but not limited to dated copies of

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announcements of the vacancy, a job description detailing the specific employment criteria for the position, official transcripts, the original foreign transcript evaluation letter, examination score reports, and verifications of experience.

(b) A waiver request should be submitted to the Commission prior to the applicant's beginning day of service. The Commission will honor the beginning date of service listed on the waiver request as long as the waiver request is submitted within ninety (90) days of the beginning date of service listed on the waiver request.

(1) Waiver requests received in the Commission office after ninety (90) day deadline following the beginning date of service will be denied due to lateness and considered as a final notice of denial.

(2) The Commission shall promptly mail a notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the denial notice, the employing agency shall remove the applicant from the assignment at the end of the working day.

(c) Waiver requests received within the ninety (90) day deadline following the beginning date of service are reviewed by Commission.

(1) If the applicant qualifies for a credential or permit that authorizes the service, the waiver request may be returned for an application and fee as appropriate for the credential or permit authorizing the service.

(2) When the applicant meets the requirements as specified in Section 80122 and following the conclusion of a fitness review performed by the Division of Professional Practices, a numbered waiver document will be issued. The waiver document identifies the applicant's credential goal and authorizes the service appropriate to that goal.

(3) When the applicant does not meet the requirements as specified in Section 80122 or insufficient information is provided by the employing agency the waiver will be denied. The Commission shall promptly mail a notice of



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denial to the employing agency, the applicant, and the county office of education when applicable.

(A) The notice of denial will explain the reasons for the denial and afford the employing agency an opportunity to submit additional information in support of the waiver request that was not available at the time the request was originally submitted. If the employing agency intends to resubmit the waiver request pursuant to (c)(4) of this section, the applicant may remain in the assignment until a final determination on eligibility is made. If the waiver request is not resubmitted pursuant to (c)(4) of this section, upon receipt of the notice of denial, the employing agency shall remove the applicant from the assignment at the end of the working day.

(4) Waiver requests that were denied for insufficient information or ineligibility that are resubmitted within thirty (30) days of the date on the notice of denial are reviewed by Commission.

(A) When the applicant qualifies for a credential or permit that authorizes the service, the waiver request may be returned for an application and fee, as appropriate, for the credential or permit authorizing service.

(B) When the applicant does not meet the requirements as specified in Section 80122 and following the conclusion of a fitness review performed by the Division of Professional Practices, a numbered waiver document will be issued. The waiver document identifies the applicant's credential goal and authorizes the services appropriate to that goal.

(C) When the applicant does not meet the requirements as specified in Section 80122 or insufficient information is provided by the employing agency the waiver will be denied. The Commission shall promptly mail a final notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the final notice of denial, the employing agency shall remove the applicant from the assignment at the end of the work day.

(5) Waiver requests that were denied for insufficient information or ineligibility that are resubmitted after thirty days of the denial will be denied. The Commission shall promptly mail a final notice of denial to the employing agency, the applicant, and the county office of education when applicable. Upon receipt of the final notice, the employing agency shall remove the applicant from the assignment at the end of the working day.

NOTE: Authority Cited: Section 44225(q), Education Code. Reference: Section 44225, subdivision (m), Education Code



## Humphreys, Breanne@DCA

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**From:** Humphreys, Breanne@DCA  
**Sent:** Tuesday, April 01, 2014 5:01 PM  
**To:** 'j.hall@prospeech.net'  
**Subject:** RE: continuing education

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** BOARD MEMBERS

Janet,

I will be happy to bring your concern to the attention of the Board members at our next meeting in May.

Thank you,

BREANNE HUMPHREYS  
INTERIM EXECUTIVE OFFICER

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

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**From:** [j.hall@prospeech.net](mailto:j.hall@prospeech.net) [mailto:j.hall@prospeech.net]  
**Sent:** Tuesday, April 01, 2014 4:57 PM  
**To:** Humphreys, Breanne@DCA  
**Subject:** continuing education

Hi Ms. Humphrey,

I understand that out of the 24 hours of continuing ed requirement, 6 hours are allowed under self study.

As a working SLP for 25 years, I've been attending continuing ed classes using my own time off and with no subsidy from my employers for the past 13 years. With a LIVE seminar costing between \$200-\$300 for 6 units, it makes obtaining 24 units rather expensive. In addition to the cost of class, I sometimes have to take a day off without pay to attend a certain class.

Since ASHA does not have a maximum set for self study allowance, I am writing to request that the CA board would consider aligning the regulation with ASHA, or at least relaxing the 6 hours maximum rule.

Thank you of your consideration.

*Janet Hall, M.A. CCC-SLP  
Speech Language Pathologist*



# Continuing Education Requirements

The content of each continuing education (CE) course must meet the Board's content requirements for each license type, as described below. Content that is **not** acceptable for any license type are; courses related to office production, financial planning, employee benefits, marketing, or ways to increase productivity or profitability, and any course in which the licensee, not the consumer, is the primary beneficiary.

The board shall have the right to audit the records of any licensee to verify the completion of the CE requirements. Licensees shall maintain records of completion of required CE coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request. (B&P Code 2532.6)

## AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS

- **Courses that are relevant to the scope of practice may be taken from the following providers:**
  - American Speech and Hearing Association (ASHA)
  - American Academy of Audiology (AAA)
  - California Medical Association – Institute for Medical Quality (CMA)
  - Accredited Universities
  - Board approved Professional Development Providers (PDP). Click the following link for a current list of PDP's: [http://www.speechandhearing.ca.gov/forms\\_pubs/providerlist.pdf](http://www.speechandhearing.ca.gov/forms_pubs/providerlist.pdf)

### Definitions:

- **Self-Study** – This includes viewing pre-recorded courses, listening to audiotapes, and online courses which are non-participatory (recorded courses that include a live chat or test upon completion are still considered self-study.) **Live** online courses are not self-study and are considered the equivalent to sitting in a class.
- **Related Courses** – Topics such as: social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, professional service delivery models, interdisciplinary case management issues, and medical pathologies related to neurological disorders that also result in communication difficulties.
- **Indirect Client Care** – Topics such as: legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, and technological applications related to assessment/diagnosis or intervention.

**NOTE: If you do not complete the CE by your license expiration date, you must place your license on inactive status and cease practice.** When placing your license on inactive status you are still required to pay the full renewal fee. To reactivate your license, you must submit the Request for Reactivation of License and provide proof of completing the CE requirement. Click here for the Request for Reactivation of License form: [http://www.speechandhearing.ca.gov/forms\\_pubs/reactivate.pdf](http://www.speechandhearing.ca.gov/forms_pubs/reactivate.pdf)

### Requirements:

#### Biennial Renewal:

**24 hours of CE are required for each renewal period.**

- Within the 24 hours, a minimum of 20 hours must be directly relevant to the scope of practice of speech-language pathology or audiology.
- Within the 24 hours, a maximum of 6 hours may be in self-study courses.
- Within the 24 hours, a maximum of 4 hours may be taken from related courses and/or indirect client care courses.
- Within the 24 hours, no more than 8 hours may be combined between self-study and related/client care courses.

#### New Licensees:

**If you have been licensed for less than two years (first time renewal), 12 hours of CE are required.**

- Minimum of 10 hours must be directly relevant to the scope of practice of speech-language pathology or audiology.
- **Maximum of 2 hours may be in self-study courses.**
- Maximum of 2 hours may be taken from related courses and/or indirect client care courses.

#### Dual License Holders:

***If you hold both a Speech-Language Pathology license and an Audiology license, 32 hours of CE are required. (16 hours for each license)***

- 16 hours must be directly relevant to the scope of practice of speech-language pathology
- 16 hours must be directly relevant to the scope of practice of audiology
- Within the 32 hours, a minimum of 29.5 hours must be live courses.
- Within the 32 hours, a maximum of 2.5 hours may be taken in self-study
- Within the 32 hours, a maximum of 2.5 hours may be taken in related and/or indirect care.

#### SPEECH-LANGUAGE PATHOLOGY ASSISTANTS – *Renews Biennially*

##### Requirements:

***12 hours of CE are required for each renewal period.***

- Courses may be taken from state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication and related disorders. *Courses from an accredited university (including a master's degree program) cannot be counted for CE credit.*
- The Speech-Language Pathology Assistant's supervisor shall be responsible for assisting in the selection of the required courses.
- Courses may be taken from Board approved providers; however this is not a requirement. Click the following link for a current list of PDP's:  
[http://www.speechandhearing.ca.gov/forms\\_pubs/providerlist.pdf](http://www.speechandhearing.ca.gov/forms_pubs/providerlist.pdf)
- There is no limit to self-study courses that may be taken.

**NOTE: *If you do not complete the CE by your license expiration date, you must place your license on inactive status and cease practice.*** When placing your license on inactive status you are still required to pay the full renewal fee. To reactivate your license, you must submit the Request for Reactivation of License and provide proof of completing the CE requirement. Click here for the Request for Reactivation of License form: [http://www.speechandhearing.ca.gov/forms\\_pubs/reactivate.pdf](http://www.speechandhearing.ca.gov/forms_pubs/reactivate.pdf)

#### DISPENSING AUDIOLOGISTS – *Renews Annually*

- **Courses that are relevant to the scope of practice of Audiology may be taken from the following providers:**
  - American Speech and Hearing Association (ASHA)
  - American Academy of Audiology (AAA)
  - California Medical Association – Institute for Medical Quality (CMA)
  - Accredited Universities
  - Board approved Professional Development Providers (PDP). Click the following link for a current list of PDP's: [http://www.speechandhearing.ca.gov/forms\\_pubs/providerlist.pdf](http://www.speechandhearing.ca.gov/forms_pubs/providerlist.pdf)
- **Hearing Aid Dispenser courses must be taken from those listed on the Board approved list. Click here for a list of approved courses:**  
[http://www.speechandhearing.ca.gov/forms\\_pubs/cecourses.pdf](http://www.speechandhearing.ca.gov/forms_pubs/cecourses.pdf)

#### Definitions:

- **Self-Study** – This includes viewing pre-recorded courses, listening to audiotapes, and online courses which are non-participatory (recorded courses that include a live chat or test upon completion are still considered self-study.) **Live online courses are not self-study and are considered the equivalent to sitting in a class.**
- **Related Courses** – Topics such as: social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, professional service delivery models, interdisciplinary case management issues, and medical pathologies related to neurological disorders that also result in communication difficulties.
- **Indirect Client Care** – Topics such as: legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, and technological applications related to assessment/diagnosis or intervention.

**NOTE: If you do not complete the CE by your license expiration date, you must place your license on inactive status and cease practice.** When placing your license on inactive status you are still required to pay the full renewal fee. To reactivate your license, you must submit the Request for Reactivation of License and provide proof of completing the CE requirement. Click here for the Request for Reactivation of License form: [http://www.speechandhearing.ca.gov/forms\\_pubs/reactivate.pdf](http://www.speechandhearing.ca.gov/forms_pubs/reactivate.pdf)

#### Requirements:

**12 hours of CE are required for each renewal period.**

- 6 hours must be relevant to the practice of audiology.
- 6 hours must be in courses relevant to hearing aid dispensing. **Manufacturer courses are allowed as long as they are not product and/or device specific.**
- Maximum of 1.5 hours may be taken in self-study courses.
- Maximum of 1.5 hours may be taken from related courses and/or indirect client care courses.

#### Dual License Holders:

**If you hold both a Dispensing Audiology license and a Speech-Language Pathology license:**

- **8 CE hours are required annually to renew the Dispensing Audiology License.**
  - 4 hours must be relevant to the practice of audiology
  - 4 hours must be relevant to the practice of speech-language pathology
  - Maximum of 1 hour may be taken in self-study courses.
  - Maximum of 1 hour may be taken from related courses and/or indirect client care courses.
- **16 CE hours are required biennially to renew the Speech-Language Pathology license.**
  - Maximum of 2.5 hours may be taken in self-study courses. \*
  - Maximum of 2.5 hours may be taken from related courses and/or indirect client care courses. \*

\*A maximum combination of only 4 hours may be obtained between self-study and related and/or indirect client care courses per renewal cycle.

#### HEARING AID DISPENSERS – *Renews Annually*

- All courses must be taken from those listed on the Board approved list. Click here for a list of approved courses: [http://www.speechandhearing.ca.gov/forms\\_pubs/cecourses.pdf](http://www.speechandhearing.ca.gov/forms_pubs/cecourses.pdf)

#### Definitions:

- **Self-Study** – This includes viewing pre-recorded courses, listening to audiotapes, and online courses which are non-participatory (recorded courses that include a live chat or test upon completion are still considered self-study.) **Live online courses are not self-study and are considered the equivalent to sitting in a class.**
- **Related Courses** – Topics such as: social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, professional service delivery models, interdisciplinary case management issues, and medical pathologies related to neurological disorders that also result in communication difficulties.
- **Indirect Client Care** – Topics such as: legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, and technological applications related to assessment/diagnosis or intervention.

**Requirements:**

**9 hours of CE are required for each renewal period.**

- Minimum of 6 hours must be directly relevant to the scope of practice of Hearing Aid Dispensers.
- Maximum of 3 hours may be taken in ethics courses **(including the ethics of advertising and marketing)** or business practices.
- Currently, there is no limit to the amount of hours that may be taken through self-study courses.





**HEARING AID DISPENSERS MEETING MINUTES**  
**Radisson Hotel/San Francisco Airport**  
**February 6, 2014**  
5000 Sierra Point Parkway  
Brisbane, CA 94005

**Committee Members Present**

Alison Grimes, Dispensing Audiologist  
Marcia Raggio, Dispensing Audiologist  
Amnon Shalev, Hearing Aid Dispenser

**Committee Members Absent**

Deane Manning, Chair, Hearing Aid Dispenser  
Rodney Diaz, Otolaryngologist  
Jaime Lee, Public Member

**Board Members Present**

Dee Parker, Speech-Language Pathologist  
Debbie Snow, Public Member

**Staff Present**

Breanne Humphreys, Interim Executive Officer  
Sabina Knight, Legal Counsel

**Guests Present**

Kim Craig, KP Public Affairs  
Cindy Peffers, Hearing Aid Dispenser, HHP  
Randall Sager, Hearing Aid Dispenser, HHP  
Michael Snow

**I. Call to Order**

Chairperson Alison Grimes called the meeting to order at 1:45 p.m.

**II. Introductions**

Those in attendance introduced themselves.

**III. Approval of the June 12, 2013 Hearing Aid Dispensers Committee Meeting Minutes**

**M/S/C Shalev/Raggio**

**Minutes approved with minor edits.**

#### **IV. Development of Proposed Practice Guidelines for Hearing Aid Dispensing**

Ms. Humphreys stated that Mr. Manning was still revising the document and would have it available for the May Board meeting.

#### **V. Discussion on Whether a Bone-Anchored Device, External Sound Processor, Requires a License to Dispense**

Ms. Grimes gave a background on a bone-conduction hearing device. It has been around for over 40 years and is not a new technology. Most hearing aids can be wired to have a bone conduction receiver as opposed to an air conduction receiver. It is still a hearing aid but with a different kind of receiver. It is a two-part integrated system. The first component is an internal device, in which a surgeon implants it into the skull in the mastoid bone behind the ear. This component is classified as a Class II medical device. The second component is an external device which is snapped on and programmed for a specific hearing loss. This is FDA approved for children over the age of five. Babies who are born without ear(s) are usually fitted with the external device on an elastic headband which vibrates; there is no surgically implanted device. Mr. Shalev stated that any device that requires fitting and programming for a specific hearing loss should be performed by a licensed dispenser of hearing aids. Ms. Raggio agreed.

However, the Board has been informed by a manufacturer of this bundled system that the FDA does not require the person fitting the external component to have a hearing aid license. Ms. Raggio stated that since state laws cannot be more stringent than FDA laws, we would have to address this issue with the FDA and obtain a waiver.

Ms. Knight stated this is a scope of practice question. She will contact the FDA for clarification and inquire about the headband versus the bone anchored device.

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

Ms. Humphreys reported that our exemption request is currently under review. It was filed on June 4, 2012.

Chairperson Grimes adjourned the meeting.

# Practice Guidelines for Hearing Aid Dispensing

## **I. Client Assessment**

- A. Patient History
  - Prior medical conditions related to ears and hearing, ear-or ear-related surgeries.
  - Prior experience with hearing instruments/devices
  - Family/social considerations regarding hearing problems
  - Ear/hearing-specific history (e.g., onset of hearing loss)
  - Communication needs/requirements (e.g., work safety)
- B. Identify Conditions Requiring a Referral for Medical Evaluation/Treatment (FDA/State Law)
- C. Communication needs/requirements
- D. HIPAA Disclosures

## **II. Ear Inspection**

- A. Perform Safe Support Technique- Otoscopic Examination
  - Assess size, length, and formation of ear canal; Assess auricle, external auditory canal, tympanic membrane
- B. INDICATIONS FOR REFERRAL TO PHYSICIAN:
  - Presence of cerumen or other ear canal blockage
  - Presence of blood, foreign object, PE tube, pus/drainage
  - Presence of congenital or acquired deformities

## **III. Testing Procedures**

- A. Audiometric Assessment (Check Equipment for Proper Functioning)
  - i. Pure tone air conduction (masking)
  - ii. Pure tone bone conduction (masking)
    - Most comfortable loudness
    - Speech discrimination
    - Word Recognition
    - Speech reception threshold
    - Speech Recognition Threshold
    - Speech stimuli/Threshold of discomfort
- B. Audiometric Interpretation
  - Evaluate test results
  - Advise client of results
  - Check prior test results to determine reliability/validity

## **IV. Candidacy & Selection**

- A. Determine type and degree of loss and appropriate amplification
- B. Candidacy based on degree of hearing loss/physical/life style/client functionality
- C. Select technology including client preferences for features and price

- D. Inform client of legal obligations regarding purchase, return policies, refunds, replacements, exchanges, & expectations regarding adjustments

**V. Ear Impression**

- A. Placement of otoblock
- B. Pre-impression otoscopy to ensure proper otoblock placement
- C. Insert impression material using proper safe-support technique
- D. Remove impression
- E. Post-impression otoscopy to ensure no impression material remains in the ear canal(s) or any abrasion is noted.

**VI. Evaluating Hearing Instrument**

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

**VII. Fitting**

- A. Verify physical fit
- B. Adjustments (electroacoustic characteristics)
- C. Instruction/Demonstration to client
  - 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 battery use and disposal
- D. Counsel client on expectations
- E. Fitting verification measurements
  - (Speech Mapping/RealEar Measurement/Self-Report Scale)

**VIII. Hearing Aid Orientation/Expectations**

- A. Frequency of use
- B. How to manage ear pain
- C. Becoming accustomed to hearing aid use
- D. Limitations of amplification/Hearing in Noise
- E. Changing batteries

**IX. Postfitting**

- A. Assess performance of hearing instrument – testing
- B. Service or repair
- C. Follow-up and assistance with client needs

SB 1326 – Roth  
Last amended April 29, 2014

Song Beverly Consumer Warranty Act

EXISTING LAW

Existing law:

- Requires all new and used assistive devices sold at retail in this state to be accompanied by the retail seller's written warranty which is required to contain specified language including that the assistive device may be returned by the seller within 30 days of the date of receipt or completion of fitting by the seller; whichever occurs later.
- Requires the warranty period, relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for \$50 or more, automatically be tolled from the date of the initial date of delivery to the buyer.
- Requires every manufacturer or seller of consumer goods selling for \$50 or more to provide a receipt to the buyer showing the date of purchase.
- Requires every manufacturer or seller performing warranty repairs or services on goods to provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced.

SUMMARY OF SB 1326

As amended, this bill will do the following:

- Require all new and used hearing aids sold in the state of California to be accompanied by the retail seller's written warranty which is required to contain specified language including, if the device is not initially fit for the buyers particular needs, it may be returned to the seller within 30 days of the initial date of delivery to the buyer.
- Require the warranty period to resume on the date upon which the repaired or serviced hearing aid is delivered to the buyer or 5 days after the buyer is notified that the hearing aid is repaired or serviced and is available for the buyer's possession; whichever is earlier.
- Require the seller, after receiving the hearing aid for warranty repairs or service, to provide at the time of delivery to the buyer a work order or receipt with the date the warranty period resumes and the revised expiration date of the warranty, as adjusted to reflect the suspension of the warranty period provided.



## SB 1326 Roth (Warranty Provisions for Hearing Aids)

**Strike out is what is deleted**  
**Italics designate new language.**

### ***SECTION 1.***

*Section 1793.02 of the Civil Code is amended to read:*

#### **1793.02.**

(a) ~~All~~ (1) *Except as provided in paragraph (2), all* new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: "This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws." In lieu of the words "30 days" the retail seller may specify any longer period.

(2) (A) *All new and used hearing aids sold in this state shall be accompanied by the retail seller's written warranty and shall contain the following language: "This hearing aid is warranted to be specifically fit for the particular needs of you, the buyer. If the hearing aid is not initially fit for your particular needs, it may be returned to the seller within 30 days of the initial date of delivery to you. If you return the hearing aid, the seller will either adjust or replace the hearing aid or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws."*

(B) *In lieu of the words "30 days" the retail seller may specify any longer period.*

(C) *The retail seller's written warranty shall include the initial date of delivery to the buyer of the hearing aid and expiration date of the warranty.*

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

(c) If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be canceled all contracts, instruments, and security agreements executed by the buyer in connection with the sale.

When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.

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

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

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

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

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

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

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

(h) The language in subdivision (a) shall not constitute an express warranty for purposes of Sections 1793.2 and 1793.3.

## ***SEC. 2.***

*Section 1795.6 of the Civil Code is amended to read:*

### **1795.6.**

(a) ~~Every~~ *(1) Except as provided in paragraph (2)* warranty period relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for fifty dollars (\$50) or more shall automatically be tolled for the period from the date upon which the buyer either (1) delivers nonconforming goods to the manufacturer or seller for warranty repairs or service or (2), pursuant to subdivision (c) of Section 1793.2 or Section 1793.22, notifies the manufacturer or seller of the nonconformity of the goods up to, and including, the date upon which (1) the repaired or serviced goods are delivered to the buyer, (2) the buyer is notified the goods are repaired or serviced and are available for the buyer's possession or (3) the buyer is notified that repairs or service is completed, if repairs or service is made at the buyer's residence.

*(2) With respect to hearing aids, the warranty period shall resume on the date upon which (1) the repaired or serviced hearing aid is delivered to the buyer or (2) five days after the buyer is notified*



*the hearing aid is repaired or serviced and is available for the buyer's possession, whichever is earlier.*

(b) Notwithstanding the date or conditions set for the expiration of the warranty period, such warranty period shall not be deemed expired if either or both of the following situations occur: (1) after the buyer has satisfied the requirements of subdivision (a), the warranty repairs or service has not been performed due to delays caused by circumstances beyond the control of the buyer or (2) the warranty repairs or service performed upon the nonconforming goods did not remedy the nonconformity for which such repairs or service was performed and the buyer notified the manufacturer or seller of this failure within 60 days after the repairs or service was completed. When the warranty repairs or service has been performed so as to remedy the nonconformity, the warranty period shall expire in accordance with its terms, including any extension to the warranty period for warranty repairs or service.

(c) For purposes of this section only, "manufacturer" includes the manufacturer's service or repair facility.

(d) ~~Every~~ *(1) Except as provided in paragraph (2), every* manufacturer or seller of consumer goods selling for fifty dollars (\$50) or more shall provide a receipt to the buyer showing the date of purchase. Every manufacturer or seller performing warranty repairs or service on the goods shall provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced or, where applicable, the date the goods were shipped or delivered to the buyer.

*(2) With respect to hearing aids, the seller, after receiving the hearing aid for warranty repairs or service, shall also provide at the time of delivery to the buyer a work order or receipt with the following: (1) the date the warranty period resumes and (2) the revised expiration date of the warranty, as adjusted to reflect the suspension of the warranty period provided under this section.*





## **AUDIOLOGY PRACTICE COMMITTEE MEETING MINUTES**

**Radisson Hotel/San Francisco Airport**

**February 6, 2014**

5000 Sierra Point Parkway

Brisbane, CA 94005

### **Committee Members Present**

Alison Grimes, Chair, Dispensing Audiologist

Marcia Raggio, Dispensing Audiologist

Amnon Shalev, Hearing Aid Dispenser

### **Committee Members Absent**

Rodney Diaz, Otolaryngologist

Jaime Lee, Public Member

### **Board Members Present**

Dee Parker, Speech-Language Pathologist

Debbie Snow, Public Member

Patti-Solomon Rice, Speech-Language Pathologist

### **Staff Present**

Breanne Humphreys, Interim Executive Officer

Sabina Knight, Legal Counsel

### **Guests Present**

Kim Craig, KP Public Affairs

Cindy Peffers, Hearing Aid Dispenser, HHP

Randall Sager, Hearing Aid Dispenser, HHP

Michael Snow

## **I. Call to Order**

Chairperson Alison Grimes called the meeting to order at 3:30 p.m.

## **II. Introductions**

No introductions.

## **III. Approval of the October 10, 2013 Audiology Practice Committee Meeting Minutes**

**M/S/C Shalev/Raggio**

**Minutes approved with minor edits.**

**IV. Develop Proposed Regulatory Amendments for Audiology Aide Supervision Standards and Practice Limitations (16 CCR 1399.154-1399.154.4)**

Ms. Grimes stated that in developing the audiology aide practice limitations, the committee focused on the prohibited tasks of the aide instead of what is allowable.

An 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. Fit or sell 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;
10. Conduct evaluations;
11. Interpret data;
12. Alter treatment plans;
13. Perform any allowable task without the express knowledge and approval of a supervising audiologist.

Ms. Peffers commented that HHP feels that the fitting and selling of hearing aids is a broad statement (i.e. ear mold impression). She feels like it should read that any activity that requires a hearing aid dispenser trainee license would not be allowed by an audiology aide unless they possess a hearing aid trainee license. She stated that ear mold impressions should be a separate item on the list.

Mr. Shalev recommended that we add to #7. Fit or sell a hearing aid without possessing a valid hearing aid dispensers license or hearing aid dispensers training license.

The committee delegated to Ms. Humphreys to send out the above list as it is, with no additional changes at this time to the interested parties (CAA, HHP, CSHA) for public comment. Ms. Raggio said she would take those comments back to the subcommittee for review.

**V. Clarifying the Language for Ease of Understanding on the Permissible Continuing Education Hours for Dispensing Audiologists.**

Ms. Grimes asked to have this placed on the agenda since there is much confusion on what CE courses are allowed for dispensing audiologists.

Ms. Humphreys explained that she got her team together and reviewed what was on the website regarding continuing education and realized it was confusing. She and staff reworked the website document.

Ms. Grimes suggested that we add to the document that live on-line courses are the equivalent to sitting in a classroom.

Mr. Shalev commented that the document incorrectly states that there are hearing aid dispensing changes that are effective January 1, 2015; the Board has not submitted the Rulemaking File. Ms. Humphreys will confirm.

**VI. Discussion of Services Provided by Regional Centers to Children Who Are Deaf or Hard of Hearing**

Ms. Grimes stated that this has been a consumer protection of the Board for several years. The Board's last letter to the Department of Developmental Services (DDS) is dated September 2009 with a response from DDS on July 2010.

Ms. Humphreys referenced the Board's 2013 Sunset Report where the Board asked the Legislature to convene a task force to investigate and address these issues. The Senate Business and Professions and Economic Development Committee responded that it was outside their jurisdiction and suggested we work with the Health Committee, Human Services Committee and/or the Educational Committee of both houses.

The Board delegated that Ms. Humphreys send out letters to the three committees of both houses. (Ms. Grimes will write the letter.)

Ms. Grimes adjourned the meeting at 4:00 p.m.



## INFORMAL COMMENTS ON THE AUDIOLOGY AIDE DRAFT REGULATIONS

- Likes that the aide shall wear a name tag at all times.
- The expanded definition of an audiology aide would include evaluation of vestibular function and/or treating individuals with balance disorders. Licensed dispensers do not test vestibular or balance issues and this raises a concern on consumer protection.
- Add the following language to your proposed language: Be physically present while the audiology aide is assisting with patients, unless an alternative treatment plan has been approved by the Board, and 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. This is consistent with standing regulations, included in the speech-language pathology aide supervision.
- “Fit or sell a hearing aid without possessing a valid hearing aid dispenser’s license or a valid hearing aid trainee license”. Need to elaborate and include:
  - May not take an ear impression
  - May not adjust or modify a hearing aid or an ear mold
- Need to add to the list of activities outside of the scope of responsibility:  
Any activities that currently require either a hearing aid dispensing license or a trainee license without first obtaining one.
- Need more clarity in testing: specify that one must be licensed to perform bone conduction testing including masked bone conduction.
- I am currently training an audiology aide for a Hearing Aid license. This person informed me that he has taken impressions before.
- Audiology codes VNG, ABR, and OAE that have a technical and professional component can be performed alone in a room by a non-audiologist technician as long as the physician provides supervision. Medicare guidelines state the physician does not need to be in the room when this occurs as long as they are present in the office.

The following codes are listed as having a billable technical component when performed by a technician:

92541 Spontaneous nystagmus test, including gaze and fixation nystagmus, with recording

92542 Positional nystagmus test minimum of four positions with recording

92543 Caloric vestibular test, each irrigation (binaural, bithermal stimulation constitutes four tests) with recording

92544 Optokinetic nystagmus test, bidirectional, foveal or peripheral stimulation with recording

92545 Oscillating tracking test with recording

92546 Sinusoidal vertical axis rotational testing

92548 Computerized dynamic posturography

In addition to vestibular function tests (92541-92546 and 92548) with a technical component, and audiology tech may bill the technical portion of these services:

92585 Auditory evoked potentials for evoked response audiometry and/or testing of the central nervous system; comprehensive

92587 Evoked otoacoustic emissions; limited (single stimulus level, either transient or distortion products)

92588 Evoked otoacoustic emissions; comprehensive or diagnostic evaluation (comparison of transient and/or distortion product otoacoustic emissions at multiple levels and frequencies

- Excellent Job.



## **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 or vestibular function of individuals and/or is treating individuals with hearing or balance 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. 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.

### **1399.154.1.1 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 telephonic or 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 pure tone air conduction threshold audiograms.

(4) Following the completion of any pure tone 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. ~~—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.

### **1399.154.25. Responsibilities of Audiology Aide's Supervisor.**

A supervisor of an 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 that may be provided by the audiology aide in the supervision plan for the particular aide and setting, in keeping with Board requirements (Section 1399.154.1), and list those tasks that an aide will not conduct (Section 1399.154.8).
- (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**

- (a) An audiology aide may not perform any of the following functions:
  - (1) Conduct diagnostic evaluations;
  - (2) Interpret diagnostic data;
  - (3) Alter treatment plans;
  - (4) Provide counseling or advice to a client or a client's parent or guardian which is beyond the scope of the client's treatment;
  - (5) Sign any documents in lieu of the supervising audiologist i.e., treatment plans, client reimbursement forms, or formal reports;
  - (6) Discharge clients from services;
  - (7) Make referrals for additional services outside the audiology practice;
  - (8) Unless required by law, disclose confidential information either orally or in writing to anyone not designated by the supervising audiologist;
  - (9) Represent himself or herself as an audiologist;
  - (10) Fit or sell a hearing aid without possessing a valid hearing aid dispensers license or a valid hearing aid trainee license;
  - (11) Independently adjust hearing aids or cochlear implant settings;
  - (12) Perform those procedures that require a high level of clinical acumen and technical skill, e.g., diagnostic VNG, ENG, ABR interpretation;
  - (13) Perform any task without the express knowledge and approval of a supervising audiologist, or
  - (14) Violate HIPPA regulations/laws/requirements

## CCS MUST PANEL LICENSED AUDIOLOGISTS PRIOR TO THEM TREATING MediCal/CCS CHILDREN

This is a matter of consumer protection because, if the law is followed to a “T”, infants and children who are covered under CCS (which is easily half if not more of all the kids in the state) cannot easily access Audiology services for diagnosis and treatment of hearing loss, including state-mandated follow-up for failed newborn hearing screening.

Briefly, a student who is working under a licensed audiologist as an RPE is permitted to evaluate and treat a child who is covered by CCS under the supervision of the licensed audiologist. Once the audiologist graduates, applies for and gets a license, s/he CANNOT continue to see those very same children, even with supervision, until s/he attains “CCS paneling”. The audiologist must first demonstrate TWO years of pediatric experience, one of which can be the 4<sup>th</sup> year (RPE). So—there is a full year where the audiologist must practice pediatric audiology, but CANNOT practice pediatric audiology seeing CCS kids, even if there is supervision. THEN, the audiologist can apply for CCS paneling, a process which takes months, if not a year or more, to obtain.

So, the very same person who formerly provided services (under supervision, defined as 8 hours per month) cannot, with a higher level of expertise and experience, continue to provide the very same services until an additional year of practice is completed (often in the same institution), and only then after applying for and receiving CCS credentialing.

Consider this scenario:

1. - Student spends their 4<sup>th</sup> year at UCLA, and sees many many CCS kids with appropriate - supervision -
2. - Student graduates, gets hired by UCLA. CANNOT see the same patients until a year or more later, AFTER s/he gets CCS paneled
3. - In the interim, the newly-licensed audiologist cannot see CCS kids, so productivity (a big buzzword everywhere) is below standard. Even if a kid shows up needing services, the licensed, very competent audiologist who could and DID see that exact same kid a year previously, cannot see the kid now!
4. - This is a disincentive for a center to participate in CCS, because if the audiologist can't see patients, can't bill and be productive, then they are not a good hire.

CCS is already critically short of providers. CCS-covered kids often have no place to go (which is why we see kids from San Luis Obispo, Fresno, Bishop, Baker...). Or they just don't get seen.





February 11, 2014

Mike Wilkening, Acting Director  
Department of Developmental Services  
1600 9<sup>th</sup> Street  
Sacramento, CA 95814

Dear Mr. Wilkening,

I am writing on behalf of the Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board to express our concern about lack of appropriate services to infants and children who are Deaf/Hard-of-Hearing (D/HH) whose Early Intervention (EI) provider is the Regional Center (RC) system.

Children (birth-3) who are D/HH and who have additional physical/developmental handicaps receive all of their EI services at/through the RC system. In some limited cases, children may be dually-served by the RC and the local educational agency (LEA), however, this is not typically the case. The RC system takes on the responsibility for the diagnosis and treatment of all conditions that impede the child's development.

When the RC is the case-manager for EI, the child's physical needs are typically met by Physical Therapy, Occupational Therapy, and "Infant Stimulation". The speech-language-auditory piece, including American Sign Language instruction for the child and family if indicated, are often overlooked or postponed. The reasons for this are unclear, but probably include the fact that hearing impairment and language delay are invisible disabilities, and are often not addressed until well after the critical time period for intervention.

The mission of the Joint Committee on Infant Hearing (JCIH) is to address issues that are important to the early identification, intervention, and follow-up care of infants and young children with hearing loss. In 1994, the JCIH endorsed universal detection of hearing loss in newborns and infants and stated that all infants with hearing loss be identified before 3 months of age; be fitted with hearing aids by 4 months of age; and receive EI by 6 months of age. The best practice guidelines stipulate that services be provided by speech-language pathologists, audiologists, and teachers of the D/HH with specific knowledge and skills in speech and language development needs of the D/HH infant. (Please see the attached 2012 Supplement to the JCIH 2007 Position Statement: Principals and Guidelines for Early Intervention Following Confirmation That a Child is Deaf or Hard of Hearing.)

We have more than a few examples of children whose hearing impairment failed to be addressed in the RC system until the child transitioned to Part B services at age 3. Including more than one child with congenital, bilateral, aural atresia (absence of ears) who did not receive evaluation, hearing aids or services, until transitioning to Part B! Children with hearing impairment have apparently received speech services without seeing an audiologist first, only to discover that the

child had significant hearing loss which was impeding his ability to participate in the speech therapy. The RC system misdiagnosed a child as “autistic”, as the child was later found to be deaf, not autistic. This misdiagnosis could have been prevented if the child was given a hearing evaluation. Parents have expressed concern about their child’s hearing and are still unable to get their child’s hearing evaluated.

No professional other than a pediatric audiologist can evaluate an infant’s hearing and provide appropriate hearing aid or cochlear implant treatment. If parents/caregivers choose sign language for their deaf infant, only an interventionist with fluent American Sign Language (ASL) skills can provide intervention. These services seem to be largely lacking within the Regional Center system.

We have communicated with the Department of Developmental Services in the past, and have repeatedly been asked to provide examples. Examples abound, and it is past time to begin to address this on a statewide programmatic level. We exchanged letters and phone calls back in 2010, promises were made, and the situation continues.

California has a model newborn hearing screening program, in place since 2000. But there is little point in screening newborn hearing if appropriate diagnostic and therapy services are not in place for those infants/toddlers with hearing impairment.

Please assist the Board, and the consumers in California, by reaching out to the Department of Developmental Services to help us help them design treatment protocols that are consistent with national standards of care.

Sincerely,

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

Cc: Carol Liu, Chair  
Senate Education Committee

Joan Buchanan, Chair  
Education Committee, General Assembly

Ed Hernandez, Chair  
Health Committee, Senate

Richard Pan, Chair  
Health Committee, General Assembly

Leland Yee, Chair  
Human Services Committee, Senate

Mark Stone, Chair  
Human Services Committee, Assembly





**BOARD MEETING MINUTES**  
**Radisson Hotel/S.F. Airport Bay Front**  
**February 7, 2014**  
5000 Sierra Point Parkway  
Brisbane, CA 94005  
Room: MARINA 5  
(916) 263-2666

**Board Members Present**

Alison Grimes, Chair, Dispensing Audiologist  
Patti Solomon-Rice, Vice Chair, Speech-Language Pathologist  
Amnon Shalev, Hearing Aid Dispenser  
Marcia Raggio, Dispensing Audiologist  
Dee Parker, Speech-Language Pathologist  
Debbie Snow, Public Member  
Jaime Lee, Public Member

**Board Members Absent**

Rodney Diaz, Otolaryngologist  
Deane Manning, Hearing Aid Dispenser

**Staff Present**

Breanne Humphreys, Interim Executive Officer  
Sabina Knight, Legal Counsel

**Guests Present**

Michael Valentine, Deputy Attorney General  
David Benjamin, Office of Administrative Law  
Linda Pippert, CSHA Treasurer  
Michael Snow  
Guadalupe Castillo, DCA – Division of Legislative & Policy Review  
Randall Sager, HHP  
Kim Craig, HHP

**I. Call to Order**

Chairperson Grimes called the meeting to order at 9:02 a.m.

**II. Introductions**

Those present introduced themselves.

### **III. Hearing on Petition for Reconsideration of Penalty Relief for Licensee – Mika Moore (Winkle)**

David L. Benjamin, Office of Administrative Law Judge, convened the hearing. Ms. Moore represented herself. Michael Valentine is the Deputy Attorney General representing the people of the State of California.

Ms. Winkle was placed on seven (7) years probation effective May 8, 2010 for multiple acts of gross negligence and incompetence for her treatment of infants.

### **CLOSED SESSION**

**IV.** The Board met in closed session pursuant to Government Code Section 11126(c) (3) to discuss and vote on this matter.

### **RETURN TO OPEN SESSION**

**V.** Approval of Meeting Minutes

A. November 25, 2013 Telephonic Board Meeting Minutes

**M/S/C Shalev/Lee**

**Minutes approved as written.**

B. October 10-11, 2013 Board Meeting

**M/S/C Solomon-Rice/Parker**

**Minutes approved with a minor edit.**

**VI.** Executive Officer's Report

**Budget Update** - Ms. Humphreys explained that the budget projection for the close of this fiscal year ends with a \$320,000 surplus (a 17% savings: \$113k in Personnel Services and \$207,000 in Operating Expense and Equipment). The Governor's loan repayment schedule is still scheduled with the first payment of \$300,000 due by end of this fiscal year. The second payment of \$400,000 is due during FY 14/15 and the final payment of \$450,000 is due during FY 15/16.

### **Administrative Updates:**

#### **BreEZe**

Ms. Humphreys reported that BreEZe launched Phase I October 2013. Phase II has not launched. Our Board is in the last phase, Phase III, which has an anticipated launch date for late fall of this year. She explained some of the benefits of BreEZe for applicants and licensees:

- Apply for or renew license

- Pay with a major credit card in a secure environment
- Track the status of an application or licensing request
- Submit address changes
- Obtain proof of renewal status

### **Personnel**

Ms. Humphreys reported that the Board currently has two vacant positions: Executive Officer (EO) and Special Investigator.

The search committee is actively recruiting for the EO position. The Special Investigator position has been vacant for a year. This position has been under review by the Department of Personnel Administration. The Special Investigator handles the Board's probation monitoring and outside investigations. Ms. Humphreys reported that she currently is handling the Board's probation monitoring and DOI is conducting the investigations. Due to the continued backlog in enforcement cases, she recommends reducing this position to an inside enforcement analyst, giving the Board three (3) enforcement analysts positions and contracting with DOI for the Board's investigations. She commented that the new executive officer should make this decision because once the position is reduced, the Board would not be able to upgrade it back to a special investigator position.

She also reported that the Board's office technician is currently out on paternity leave and is due back at the end of February. A licensing analyst's spouse had major surgery and she has been out caring for him and is now working half days.

Ms. Humphreys explained that these absences are greatly impacting the Board's standard level of customer service. The Board's general email address receives on average 40 daily emails and the Board's main extension receives on average 40 daily telephone calls. Overtime is being worked and documentation has been submitted for approval to hire a seasonal clerk.

### **Continuing Education Audit & Survey**

As reported at the last Board meeting the Board started a CE audit and survey for SLP, AU, DAU, and HAD. Audit letters were sent and the Board has received correspondence back but due to the holidays and staffing shortages, staff has been unable to devote the time to the audit. The CE auditor is also a licensing analyst and has been covering the front desk duties of the OT.

### **Pending Regulation Changes**

Uniform Standards/Disciplinary Guidelines – The Board adopted the Uniform Standards and Disciplinary Guidelines language at its June 2013 Board meeting. In December, the Department's Division of Legislative and Policy Review assisted the Board with developing some of the justifications for the changes the Board adopted but it is unfinished. Lupe Castillo reported to the Board that Leg and Policy review would be able to finish the changes.

HAD CE Regulations - The language and regulatory documents are complete and have been reviewed by legal counsel. The packet is pending submission to the Office of Administrative

Law. Mr. Shalev and Mr. Sager reported that the Board has not gone out for informal public comments. Standard practice for the Board is to reach out to the interested parties on proposed regulatory changes and bring the parties comments back to the committee for consideration prior to the adoption by the full Board. Ms. Humphreys will research and report back to the Board.

HAD Advertising Regulations - At the June 2013 Board meeting the Board adopted HAD advertising regulatory language. It has been reviewed by legal counsel but to date, no further regulatory documents have been developed.

## **VII. Legislative Update**

In October 2013 the Board adopted to move forward on three statutory provisions and submit them through the Senate Business, Professions and Economic Development Committee's (SBP&EDC) Omnibus Bill. An omnibus bill is a catch all bill and is a vehicle for moving proposed legislation through that is non-substantive in nature. Non substantive changes are defined as administrative corrections or adjustments.

**A. Academic Equivalency for Internationally Trained Students – SBP&EDC accepted to carry this in their omnibus bill.**

- The original intent of the provision was to apply to internationally trained applicants. By amending the law, it closes the gap for a graduate from an U.S. unaccredited program from appealing for equivalency.
- It also removed terminology that does not relate to some international programs and was replaced with general language identifying the requirements.
- It increased the required supervised clinical practice hours to 375, to reflect what is now required by the national accredited academic programs.

**B. National Practitioners Data Bank was rejected by SBP&EDC as being substantive and not an administrative correction or adjustment.**

This legislation change was to require applicants, who are or were previously licensed in another state, to submit a self-query from the NPDB with their application package. The cost for an applicant to self-query is \$8.

The committee declined to carry this because it is increasing the licensure costs for the applicant and the committee deems it as too substantive.

The Board discussed the importance of having an NPDB query on all applicants for licensure.

**M/S/C Raggio/Parker**

**The Board voted to change by statute and regulation the requirement that applicants must pay for their NPDB report as a condition of licensure.**

**C. AB 1000 –Maienschein & Wieckowski– Professional Corporations: Healing Arts Practitioners**

At the October 2013 Board meeting, the Board adopted proposed language amending B & P Code 655.2 to close a loop hole in the employment arrangements of our three professions and include this in the SBP&EDC omnibus bill. At that time AB 1000 was still pending and has since passed. Legal counsel recommended not including this in the omnibus bill to allow the Board to review the effects of AB 1000 on our professions.

Currently under B & P Code 655.2 a physician and/or audiologist are prohibited from employing a hearing aid dispenser, unless they too are licensed to dispense hearing aids. There is no provision for the alternate employment arrangement for a hearing aid dispenser. Current law allows for a hearing aid dispenser to employ a physician and/or audiologist who are not licensed dispensers. The intent of the statute was to prohibit such employment arrangements to prevent either party from benefiting from the other. Legislation was needed to make the employment arrangement bi-directional.

With the passing of AB 1000, anyone licensed under Division 2 can be an employee of a professional corporation. Therefore, without other statutory limitations, hearing aid dispensers could be employed by any of the professional corporations listed in Division 2, subsections a-p of Moscone-Knox.

**M/S/C Lee/Parker**

**The Board voted to submit the original language that was adopted in October to the SBP&EDC omnibus bill.**

**VIII. Practice Committee Reports**

**A. Hearing Aid Dispensers Committee Report and Recommendations on the Development of a Practice Guideline Document for Hearing Aid Dispensing and the Discussion of Bone-Anchored External Sound Processors**

- Ms. Grimes reported that Mr. Manning was still revising the proposed guidelines for hearing aid dispensing and it should be available for review at the May Board meeting.
- Ms. Grimes gave a brief explanation of bone-anchored devices. It is a two-part integrated system. The first component is an internal device, in which a surgeon implants it into the skull in the mastoid bone behind the ear. This component is classified as a Class II medical device. The second component is an external device which is snapped on and programmed for a specific hearing loss.

The Board has been asked if the external sound processor can be dispensed or fit without a hearing aid license. The Board has been informed by a manufacturer of this bundled system that the FDA does not require the person fitting the external component to have a hearing aid license.

State laws cannot be more stringent than FDA laws. We may have to address this issue with the FDA and obtain a waiver. Ms. Knight will contact the FDA for further clarification.

- Ms. Grimes reported that the FDA is still reviewing the Board's exemption request on mail and internet order and catalog sales of hearing aids.

### **M/S/C Raggio/Shalev**

#### **The Committee report was accepted.**

**B. Speech-Language Pathology Practice Committee Report and Recommendations on the Discussion, Proposed Regulatory Amendments Regarding the Scope of Responsibility and Supervision Standards for Speech-Language Pathology Assistants and a Report From the California Commission on Teacher Credentialing (CCTC) Regarding Credential Waivers Issued to Speech-Language Pathologists**

- Ms. Solomon-Rice reviewed the proposed SLPA regulatory changes and the informal public comments. Lack of supervision has been an issue with the management of SLPAs. The committee will research other avenues for supervision compliance: inquire with the national board of speech-pathologists; inquire with other healthcare Boards on how they monitor supervision, and review the current RPE supervisor form for language.

The committee recommended to the full board to add the word **live** to the definition of electronic means and to correct the language to reflect the current 2013 ASHA document.

- California Commission on Teacher Credentialing (CCTC) will attend the May Board meeting in Sacramento to address:
  - a) Process for applying for Variable Term Waiver (VTW)
  - b) Minimum qualifications of the VTW
  - c) Pre-requisites for being a VTW SLP
  - d) Scope of practice of the VTW SLP
  - e) Oversight mechanism of the CTC over school districts granting VTWs
  - f) Statistical information as available
    - i) Number of VTWs and number of SLP service credentials/rehab services credentials over the past 5 years
    - ii) Full-Time Equivalent of both VTWs and SLP service credentials/rehab services credentials over the past 5 years
- Ms. Solomon-Rice reported that the SLP Occupational Analysis is underway and should be concluded in August.

**M/S/C Grimes/Shalev**

**Accept report with recommendations and delegate to Executive Officer to make the SLPA proposed regulatory changes.**

C. Audiology Practice Committee Report and Recommendations on the Discussion Regarding the Proposed Regulations for Audiology Aide Supervision Standards, Training, and Practice Limitations; Discussion on Clarifying the Language for Ease of Understanding the Continuing Education Requirements for Dispensing Audiologists; Discussion of Services Provided by Regional Centers to Children Who Are Deaf or Hard of Hearing

- Ms. Grimes reported that the committee developed tasks that were outside the scope of responsibility of an audiology aide. The committee delegated to Ms. Humphreys to send out for informal comments to those interested parties. She will then present those comments to the committee for further review.
- The committee reviewed a document that Ms. Humphreys and her team reworked to clarify the CE requirements for dispensing audiologists. This document will replace the current posting on the Board's website.
- Ms. Grimes reported that the Board's Sunset Report highlighted issues with the Regional Centers not providing the early intervention diagnostic for infants and children up to three years of age who are deaf or hard of hearing. The Senate Business, Professions and Economic Development Committee ruled that this issue was outside their jurisdiction and suggested we work with three committees: Health, Human Services and Education.

Ms. Grimes will write a letter and Ms. Humphreys will send to both houses of those committees.

**M/S/C Shalev/Solomon-Rice**

**The committee report is accepted.**

**IX. Licensing/Enforcement/Examination Statistical Data**

Statistical data was reviewed.

**X. Update on Executive Officer Recruitment**

Ms. Solomon-Rice and Ms. Raggio reported that few applications have been submitted. The search committee will work with OHR to extend the recruitment to the end of March 2014.

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

No public comments.

**XII. Announcements- Future 2014 Board Meetings**

- A. May 22-23, Sacramento
- B. Aug 20-22, Los Angeles (meeting date was changed from Aug 21-22)
- C. Nov 13-14, San Diego

**XIII. Adjournment**

The meeting was adjourned at 1:05.



**Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board - 0376**  
**BUDGET REPORT**  
**FY 2013-14 EXPENDITURE PROJECTION**

FISCAL MONTH 9

OBJECT DESCRIPTION	FY 2012-13		FY 2013-14				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (MONTH 13)	EXPENDITURES 3/31/2013	STONE 2013-14	EXPENDITURES 3/31/2014	SPENT	TO YEAR END	BALANCE
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	361,666	193,966	424,311	264,936	62%	353,884	70,427
Statutory Exempt (EO)	78,356	38,978	81,732	60,263	74%	60,263	21,469
Temp Help Reg (Seasonals)	153		1,000		0%		1,000
Temp Help (Exam Proctors)	871	486		475			0
Board Member Per Diem	0		5,854		0%	0	5,854
Committee Members (DEC)	8,700	3,000		3,200		8,000	(8,000)
Overtime	22,102	10,254	5,000	10,032		13,000	(8,000)
Staff Benefits	215,895	106,129	222,940	137,395	62%	199,978	22,962
<b>TOTALS, PERSONNEL SVC</b>	<b>687,743</b>	<b>352,813</b>	<b>740,837</b>	<b>476,301</b>	<b>64%</b>	<b>635,125</b>	<b>105,712</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	10,416	4,204	51,876	7,613	15%	12,000	39,876
Fingerprint Reports	15,680	4,655	28,439	8,894	31%	16,000	12,439
Minor Equipment	3,525		11,100	4,758		11,100	0
Printing	11,853	3,182	24,393	6,901	28%	12,000	12,393
Communication	6,277	1,833	17,027	3,244	19%	6,000	11,027
Postage	21,989	9,966	23,340	17,438	75%	22,000	1,340
Insurance			144		0%		144
Travel In State	18,573	6,171	34,162	6,316	18%	16,500	17,662
Travel, Out-of-State							0
Training			5,802		0%	500	5,302
Facilities Operations	65,374	52,680	112,569	64,400	57%	65,500	47,069
Utilities							0
C & P Services - Interdept.			23,890		0%		23,890
C & P Services - External	905	11,898		13,763		13,763	(13,763)
<b>DEPARTMENTAL SERVICES:</b>							
Departmental Pro Rata	151,494	85,158	172,854	129,641	75%	172,854	0
Admin/Exec	70,488	42,504	87,956	65,967	75%	87,956	0
Interagency Services - OPES			29,093		0%		29,093
IA w/ OPES	56,926	45,124		67,996		85,610	(85,610)
DOI-ProRata Internal	1,669	866	2,794	2,096	75%	2,794	0
Public Affairs Office	4,197	2,424	2,961	2,971	100%	2,971	(10)
CCED	18,947	10,038	38,091	28,568	75%	38,091	0
<b>INTERAGENCY SERVICES:</b>							
Consolidated Data Center	276	167	8,932	131	1%	500	8,432
DP Maintenance & Supply	4,344	2,441	17,077	2,637	15%	5,000	12,077
Central Admin Svc-ProRata	92,758	46,379	59,269	44,452	75%	59,269	0
<b>EXAM EXPENSES:</b>							
Exam Supplies							0
Exam Freight							0
Exam Site Rental			7,663	2,232		2,232	5,431
C/P Svcs-External Expert Administrative	11,463	9,916	25,542	8,870		15,000	10,542
C/P Svcs-External Expert Examiners			37,913				37,913
C/P Svcs-External Subject Matter	39,560	10,968		30,900		30,900	(30,900)
<b>ENFORCEMENT:</b>							
Attorney General	111,565	44,672	90,567	54,229	60%	90,567	0
Office Admin. Hearings	24,720	402	21,749	10,270	47%	25,000	(3,251)
Court Reporters	2,428			544		2,500	(2,500)
Evidence/Witness Fees	2,267	400	7,428	15,894	214%	17,000	(9,572)
DOI - Investigations	237,324	121,110	214,314	160,736	75%	214,314	0
Major Equipment	6,727		5,600			5,600	0
Other - Clothing & Pers Supp							0
Special Items of Expense							0
Other (Vehicle Operations)			15,000				15,000
<b>TOTALS, OE&amp;E</b>	<b>991,745</b>	<b>517,158</b>	<b>1,177,545</b>	<b>761,461</b>	<b>65%</b>	<b>1,033,521</b>	<b>144,024</b>
<b>TOTAL EXPENSE</b>	<b>1,679,488</b>	<b>869,971</b>	<b>1,918,382</b>	<b>1,237,762</b>	<b>129%</b>	<b>1,668,646</b>	<b>249,736</b>
Sched. Reimb. - Fingerprints	(15,920)	(6,169)	(31,000)	(9,628)	31%	(31,000)	0
Sched. Reimb. - Other	(8,325)	(3,105)	(2,000)	(3,995)	200%	(2,000)	0
Distributed							0
Unsched. Reimb. - Other	(11,474)	(4,005)		(28,691)			0
<b>NET APPROPRIATION</b>	<b>1,643,769</b>	<b>856,692</b>	<b>1,885,382</b>	<b>1,195,448</b>	<b>63%</b>	<b>1,635,646</b>	<b>249,736</b>
<b>SURPLUS/(DEFICIT):</b>							<b>13.2%</b>



**Senate Business, Professions and Economic Development Committee**  
**COMMITTEE BILL: PROPOSED LEGISLATION**

**Note:** Submit the completed form to the Committee electronically by email **and** as a hardcopy by mail. Attach additional information or documentation as necessary.

REQUESTOR & CONTACT INFORMATION:

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (SLPAHADB)  
Breanne Humphreys  
[breanne.humphreys@dca.ca.gov](mailto:breanne.humphreys@dca.ca.gov)  
(916)561-8779

DATE SUBMITTED:

February 14, 2014

SUMMARY:

The Board is seeking to amend 655.2 Business and Professions Code by making it bi-directional for the involved licensees.

IDENTIFICATION OF PROBLEM:

The current provision states that no audiologist or physician who is not licensed to dispense hearing aids, may not employ a hearing aid dispenser. The provision does not provide for the alternate employment arrangement where a hearing aid dispenser may not employ an audiologist or physician who is not licensed to dispense hearing aids.

The intent of the statute was to avoid collusion between the referring parties and the selling parties.

PROPOSED SOLUTION:

The SLPAHADB proposes that existing statutes be amended as follows:

655.2. No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed dispensing audiologist or hearing aid dispenser shall employ any individual licensed pursuant to ~~Article 8 of Chapter 5.3~~Chapter 7.5 (commencing with Section ~~2538.10~~3300) for the purpose of fitting or selling hearing aids. ~~No individual licensed pursuant to Article 8 of Chapter 5.3 (commencing with Section 2538.10) shall employ any physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000) or any audiologist who is not a licensed~~ dispensing audiologist or hearing aid dispenser for the purpose of fitting or selling hearing aids.

The proposed solution closes the loop and removes the incentive to refer patients to other healing arts professionals or medical professionals for financial gain. This change serves to clarify the legislative intent and is harmonious with B&P Code Section 650.

PROGRAM BACKGROUND & LEGISLATIVE HISTORY:

The Speech-Language Pathology & Audiology & Hearing Board (SLPAHADB) started out as a committee regulating speech-language pathology and audiology and operated under the jurisdiction of the Medical Board of California in 1974. The committee transitioned into its own independent health regulatory agency, the Speech-Language Pathology and Audiology Board (SLPAB). In 2010, AB 1535 merged the Hearing Aid Dispensers Bureau with SLPAB forming the current SLPAHADB.

JUSTIFICATION:

Legislation is needed to close the gap in the existing law that was intended to prohibit licensees from forming relationships for financial gain. The existing law is not bidirectional therefore a hearing aid dispenser can form a relationship with a physician or audiologist who is not licensed to dispense hearing aids, and enables the hearing aid dispenser to refer his clients for services.

ARGUMENTS PRO & CON:

The Board anticipates no opposition to the proposed change.

PROBABLE SUPPORT & OPPOSITION:

The Board anticipates no opposition to the proposed change.

FISCAL IMPACT:

The Board does not anticipate a fiscal impact as a result of the proposed change to our agency or to other stat departments.

ECONOMIC IMPACT:

The Board does not anticipate the economic impact as a result of the proposed changes.

FINDINGS FROM OTHER STATES:

There are no findings from other states.

PROPOSED TEXT (use underline & strikethrough):

655.2. No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed dispensing audiologist or hearing aid dispenser shall employ any individual licensed pursuant to ~~Article 8 of Chapter 5.3~~Chapter 7.5 (commencing with Section ~~2538.10~~3300) for the purpose of fitting or selling hearing aids. No individual licensed pursuant to Article 8 of Chapter 5.3 (commencing with Section 2538.10) shall employ any physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000) or any audiologist who is not a licensed dispensing audiologist or hearing aid dispenser for the purpose of fitting or selling hearing aids.

SB 1326 – Roth  
Last amended April 29, 2014

Song Beverly Consumer Warranty Act

EXISTING LAW

Existing law:

- Requires all new and used assistive devices sold at retail in this state to be accompanied by the retail seller's written warranty which is required to contain specified language including that the assistive device may be returned by the seller within 30 days of the date of receipt or completion of fitting by the seller; whichever occurs later.
- Requires the warranty period, relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for \$50 or more, automatically be tolled from the date of the initial date of delivery to the buyer.
- Requires every manufacturer or seller of consumer goods selling for \$50 or more to provide a receipt to the buyer showing the date of purchase.
- Requires every manufacturer or seller performing warranty repairs or services on goods to provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced.

SUMMARY OF SB 1326

As amended, this bill will do the following:

- Require all new and used hearing aids sold in the state of California to be accompanied by the retail seller's written warranty which is required to contain specified language including, if the device is not initially fit for the buyers particular needs, it may be returned to the seller within 30 days of the initial date of delivery to the buyer.
- Require the warranty period to resume on the date upon which the repaired or serviced hearing aid is delivered to the buyer or 5 days after the buyer is notified that the hearing aid is repaired or serviced and is available for the buyer's possession; whichever is earlier.
- Require the seller, after receiving the hearing aid for warranty repairs or service, to provide at the time of delivery to the buyer a work order or receipt with the date the warranty period resumes and the revised expiration date of the warranty, as adjusted to reflect the suspension of the warranty period provided.



## SB 1326 Roth (Warranty Provisions for Hearing Aids)

**Strike out is what is deleted**  
**Italics designate new language.**

### ***SECTION 1.***

*Section 1793.02 of the Civil Code is amended to read:*

#### **1793.02.**

(a) ~~All~~ (1) *Except as provided in paragraph (2), all* new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: "This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws." In lieu of the words "30 days" the retail seller may specify any longer period.

(2) (A) *All new and used hearing aids sold in this state shall be accompanied by the retail seller's written warranty and shall contain the following language: "This hearing aid is warranted to be specifically fit for the particular needs of you, the buyer. If the hearing aid is not initially fit for your particular needs, it may be returned to the seller within 30 days of the initial date of delivery to you. If you return the hearing aid, the seller will either adjust or replace the hearing aid or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws."*

(B) *In lieu of the words "30 days" the retail seller may specify any longer period.*

(C) *The retail seller's written warranty shall include the initial date of delivery to the buyer of the hearing aid and expiration date of the warranty.*

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

(c) If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be canceled all contracts, instruments, and security agreements executed by the buyer in connection with the sale.

When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.

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

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

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

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

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

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

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

(h) The language in subdivision (a) shall not constitute an express warranty for purposes of Sections 1793.2 and 1793.3.

## ***SEC. 2.***

*Section 1795.6 of the Civil Code is amended to read:*

### **1795.6.**

(a) ~~Every~~ *(1) Except as provided in paragraph (2)* warranty period relating to an implied or express warranty accompanying a sale or consignment for sale of consumer goods selling for fifty dollars (\$50) or more shall automatically be tolled for the period from the date upon which the buyer either (1) delivers nonconforming goods to the manufacturer or seller for warranty repairs or service or (2), pursuant to subdivision (c) of Section 1793.2 or Section 1793.22, notifies the manufacturer or seller of the nonconformity of the goods up to, and including, the date upon which (1) the repaired or serviced goods are delivered to the buyer, (2) the buyer is notified the goods are repaired or serviced and are available for the buyer's possession or (3) the buyer is notified that repairs or service is completed, if repairs or service is made at the buyer's residence.

*(2) With respect to hearing aids, the warranty period shall resume on the date upon which (1) the repaired or serviced hearing aid is delivered to the buyer or (2) five days after the buyer is notified*



*the hearing aid is repaired or serviced and is available for the buyer's possession, whichever is earlier.*

(b) Notwithstanding the date or conditions set for the expiration of the warranty period, such warranty period shall not be deemed expired if either or both of the following situations occur: (1) after the buyer has satisfied the requirements of subdivision (a), the warranty repairs or service has not been performed due to delays caused by circumstances beyond the control of the buyer or (2) the warranty repairs or service performed upon the nonconforming goods did not remedy the nonconformity for which such repairs or service was performed and the buyer notified the manufacturer or seller of this failure within 60 days after the repairs or service was completed. When the warranty repairs or service has been performed so as to remedy the nonconformity, the warranty period shall expire in accordance with its terms, including any extension to the warranty period for warranty repairs or service.

(c) For purposes of this section only, "manufacturer" includes the manufacturer's service or repair facility.

(d) ~~Every~~ *(1) Except as provided in paragraph (2), every* manufacturer or seller of consumer goods selling for fifty dollars (\$50) or more shall provide a receipt to the buyer showing the date of purchase. Every manufacturer or seller performing warranty repairs or service on the goods shall provide to the buyer a work order or receipt with the date of return and either the date the buyer was notified that the goods were repaired or serviced or, where applicable, the date the goods were shipped or delivered to the buyer.

*(2) With respect to hearing aids, the seller, after receiving the hearing aid for warranty repairs or service, shall also provide at the time of delivery to the buyer a work order or receipt with the following: (1) the date the warranty period resumes and (2) the revised expiration date of the warranty, as adjusted to reflect the suspension of the warranty period provided under this section.*



## LICENSING REPORT

LICENSES ISSUED	FY10/11	FY11/12	FY12/13	QTR 1 & 2 Jul - Dec	QTR 3 Jan - Mar	FY13/14 Qtr 1 - 3
AU	57	55	76	35	15	50
AUT	2	1	1	0	0	0
DAU	78	20	19***	UA	UA	UA
SLP	734	911	1056	523	186	709
SPT	1	0	0	0	0	0
SLPA	312	346	407	170	69	239
RPE'S	513	667	727	490	101	591
AIDES	52	44	51	17	15	32
CPD PROVIDERS	15	16	9	9	6	15
HAD Permanant **	50	91	84	27	21	48
HAD Trainees	77	94	95	56	50	106
HAD Licensed in Another State	12	6	7	0	5	5
HAD Branch Office	205	192	132	125	95	220
<b><i>TOTAL LICENSES ISSUED</i></b>	<b>2108</b>	<b>2443</b>	<b>2645</b>	<b>1452</b>	<b>563</b>	2015

\*\* Delay due to waiting to pass exam.



## LICENSING POPULATION

POPULATION	FY10/11	FY11/12	FY12/13	FY13/14 As of 3/31
AU	622	595	609	UA
DAU	911	930	942	UA
Both License Types	1,533	1,525	1,551	1,548
AUT	0	0	0	0
SLP	11,349	12,020	12,696	12,947
SPT	0	0	0	0
SLPA	1,304	1,529	1,771	1,850
RPE'S	608	665	682	780
AIDES	215	181	120	113
HAD Permanant **	932	938	946	940
HAD Trainees	83	97	95	134
HAD Licensed in Another State	12	6	9	8
HAD Branch Office	601	627	653	709
<b><i>TOTAL LICENSEES</i></b>	<b>18,170</b>	<b>19,113</b>	<b>20,074</b>	<b>19,029</b>



## ENFORCEMENT STATISTICS

<b>COMPLAINTS AND CONVICTIONS</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Complaints Received	71	28	46	19	19	9
Convictions Received	7	41	1	14	1	1
Average Days to Intake	1	2	1	3	2	2
Closed	103	87	31	27	41	9
Pending	111	29	128	34	107	34

*Average Days to Intake - Average cycle time from complaint received, to the date the complaint was assigned to an investigator.*

<b>INVESTIGATIONS Desk</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Assigned	98	69	46	31	21	10
Closed	91	80	27	26	32	6
Average Days to Complete	360	220	404	96	595	211
Pending	84	27	94	28	82	31

*Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure of the investigation process.*

<b>INVESTIGATIONS Non Sworn</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Assigned	0	0	0	0	0	0
Closed	6	1	0	0	0	1
Average Days to Complete	604	1166	0	0	0	905
Pending	0	1	0	0	0	0

*Average Days to Complete Non Sworn Investigations - Average cycle time from complaint receipt to closure of the investigation process.*

## ENFORCEMENT STATISTICS

<b>INVESTIGATIONS Sworn</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Assigned	25	0	10	5	1	0
Closed	6	6	4	1	9	2
Average Days to Complete	758	697	337	719	499	167
Pending	27	1	33	5	25	3

*Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure of the investigation process.*

### **ALL TYPES OF INVESTIGATIONS**

Closed Without Discipline	94	77	28	77	37	8
Cycle Time - No Discipline	383	243	409	31	580	305

<b>CITATIONS/Cease&amp;Desist</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Issued	6	3	3	0	0	3
Avg Days to Complete Cite	654	794	524	0	0	453
Cease & Desist Letter	26	0	1	0	4	0

*Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.*

<b>ATTORNEY GENERAL CASES</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Initiated / Referred to the AG	4	9	1	3	2	1
Pending at the AG	12	12	8	13	8	10
Statement of Issues Filed	1	2	0	0	0	0
Accusations Filed	1	3	1	2	2	0
SOI Withdrawn, Dismissed, Declined	0	0	0	0	0	0
Acc Withdrawn, Dismissed, Declined	0	4	0	0	1	0
Closed Without Discipline	1	4	3	3	1	2
Average Days to Discipline	606	1013	741	613	1101	621



## ENFORCEMENT STATISTICS

<b>ATTORNEY GENERAL CASE ACTIONS</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Probation	0	4	3	0	1	1
Public Letter of Reprimand	0	0	0	0	0	0
Surrender of License	0	1	1	0	0	1
Suspension of License	0	0	0	0	0	0
License Revoked	0	0	0	1	0	0
License Denied (SOI)	1	0	1	0	0	0
Conditional License	0	0	0	0	0	0

*Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of the disciplinary order.*

<b>PROBATION</b>	<b>FISCAL YEAR 2012 - 2013</b>		<b>FY 2013 - 2014 QUARTER 1 &amp; 2</b>		<b>FY 2013 - 2014 QUARTER 3</b>	
	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
New Probation Cases	0	4	2	3	1	0
Probation Completed	0	2	0	2	0	0
Active Cases	2	14	4	16	5	16
Tolled	1	9	1	8	1	1
Conditional License	0	3	1	3	1	5

