



## **COMMITTEE AND BOARD MEETING NOTICE AND AGENDA**

*Thursday, August 9, 2018 beginning at 1:00 p.m., and continuing on  
Friday, August 10, 2018 beginning at 9:00 a.m.*

**Hilton Garden Inn Old Town  
Padre Room  
4200 Taylor Street  
San Diego, CA 92110  
(916) 263-2666**

### **Board Members**

Dee Parker, Speech-Language Pathologist, Board Chair  
Marcia Raggio, Dispensing Audiologist, Vice Chair  
Rodney Diaz, Otolaryngologist  
Karen Chang, Public Member  
Amnon Shalev, Hearing Aid Dispenser  
Debbie Snow, Public Member  
Patti Solomon-Rice, Speech-Language Pathologist  
Vacant, Hearing Aid Dispenser  
Vacant, Audiologist

### **Full Board Meeting**

1. Call to Order / Roll Call / Establishment of Quorum
2. Approval of the May 31 – June 1, 2018 Board Meeting Minutes
3. Public Comment for Items not on the Agenda  
*The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))*
4. Discussion and Possible Action on the Examination Requirement for Dispensing Audiologists.
  - a. Discussion of the Requirements of Business and Professions Code Section 2539.1
  - b. Presentation from the Office of Professional Examination Services.

### **Closed Session**

5. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate on Disciplinary Matters Including Petitions, Proposed Decisions, Stipulated Decisions, Defaults, and Any Other Disciplinary Matters.

### **Open Session**

6. Update on the Board's Consumer Fact Booklet on Hearing Loss and Hearing Aids.

7. Discussion and Possible Action Regarding Board Communications with California Children's Services (CCS).
8. Discussion and Possible Action Regarding the Speech-Language Pathologist Credential Variable Term Waiver Program in California Public Schools
9. Discussion and Possible Action Regarding the July 24, 2018 FDA Letter Regarding Section 709 of the FDA Reauthorization Act of 2017 (FDARA) and Over-The-Counter (OTC) Hearing Aids and Requirements
10. Executive Officer's Report
  - a. Administration Update
  - b. Budget Report
  - c. Licensing Report
  - d. Practical Examination Report
  - e. Enforcement Report
  - f. Continuing Education (CE Audit)
11. Discussion and Possible Action regarding RPE Direct Monitoring Requirements (As Stated in California Code of Regulations Section 1399.153.3) and Remote or Tele Supervision.
12. Discussion and Possible Action regarding Supervision of Trainee-Applicants, Supervision and Training Required, and Direct Supervision (As Stated in California Code of Regulations, Sections 1399.16, 1399.118, 1399.119)
13. Legislation Update, Review, and Possible Action
  - a. AB 11 (McCarty) Early and Periodic Screening, Diagnosis, and Treatment Program: screening services.
  - b. AB 1659 (Low) Healing arts boards: inactive licenses
  - c. AB 1801 (Nazarian) Newborns: cytomegalovirus public education and testing
  - d. AB 2138 (Chiu) Licensing boards: denial of application: criminal conviction
14. Future Agenda Items and Future Board Meeting Dates
  - a. November 8-9, 2018 – Sacramento
  - b. February 7-8, 2019 Los Angeles
  - c. May 2-3, 2019 San Jose or Santa Clara
15. Adjournment

*Agendas and materials can be found on the Board's website at [www.speechandhearing.ca.gov](http://www.speechandhearing.ca.gov).*

*Action may be taken on any item on the Agenda. The time and order of agenda items are subject to change at the discretion of the Board Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. In the event a quorum of the board is unable to attend the meeting, or the board is unable to maintain a quorum once the meeting is called to order, the members present may, at the Chair's discretion, continue to discuss items from the agenda and make recommendations to the full board at a future meeting. The Board plans to webcast at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limited resources. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.*

*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, Board Operations Manager, 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.*



**BOARD MEETING MINUTES - DRAFT**  
**Sacramento, CA 95815**  
**May 31-June 1, 2018**

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

**Full Board Meeting**

Dee Parker, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 1:54 p.m. Ms. Parker called roll; six members of the Board were present and thus a quorum was established.

1. Call to Order / Roll Call / Establishment of Quorum

Board Members Present

Dee Parker, Board Chair  
Marcia Raggio, Vice Chair  
Karen Chang, Public Board Member  
Amnon Shalev, HAD, Board Member  
Debbie Snow, Public Board Member  
Patti Solomon-Rice, SLP, Board Member

Staff Present

Paul Sanchez, Executive Officer  
Breanne Humphreys, Program Manager  
Carla Newman, Enforcement Coordinator  
Kelsey Pruden, Legal Counsel  
Katrina Martinez, Analyst

Guests Present

Heidi Lincer-Hill, Chief, Office of Professional Examination Services (OPES)  
Jacque Georgeson, University of the Pacific

2. Approval of the February 9, 2018 Board Meeting Minutes

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

- **Motion to approve the February 8-9, 2018 meeting minutes as amended. The motion carried 6-0.**

3. Public Comment for Items not on the Agenda

*There were no comments from Public/Outside Agencies/Associations.*

### **Closed Session**

4. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate on Disciplinary Matters Including Petitions, Proposed Decisions, Stipulated Decisions, Defaults, and Any Other Disciplinary Matters.

The Board entered into closed session at 1:58 p.m.

### **Open Session**

The Board returned to open session at 3:20 p.m.

5. Office of Professional Examination Services presented the 2017 Audiology Occupational Analysis

Heidi Lincer-Hill, Ph.D., Chief, Office of Professional Examination Services (OPES) explained that OPES provides professional consulting services to the DCA and develops our HAD written and practical exams. Ms. Lincer-Hill explained that occupational analyses establish exam validity through linking of exam content to critical job competencies. An occupational analysis is completed with interviews, research, focus groups, surveys, and data analysis. The audiology occupational analysis reviewed the overlap between the audiology and HAD descriptions of practice.

Ms. Lincer-Hill also presented OPES' analysis regarding the examination requirements for dispensing audiologists. This analysis was done, in part, to identify unnecessary barriers to licensure. Based on its review OPES determined that audiologists wishing to dispense hearing aids should not have to take the HAD Practical examination and that the Board should evaluate further whether the practical examination was creating an unnecessary barrier to licensure. This is because practice-related HAD tasks and knowledge are represented on national examination, performance-based assessments were incorporated into curriculum in 2008, and the HAD practical exam is designed for a different population than currently trained audiologists.

Ms. Raggio inquired as to whether intraoperative monitoring (IOM) was included in the occupational analysis. Ms. Lincer-Hill answered that IOM was included in the "implantable devices" section and explained that IOM is probably linked to other related tasks but not specifically outlined. Mr. Sanchez pointed out where it is referenced in the "diagnostic testing" section.

Mr. Sanchez reminded the Board that there is a legal requirement for audiologists to take and pass the practical exam which was determined when the Boards first merged. Even though the scope of practice for audiologists include the fitting of hearing aids, the dispensing license is required to *sell* hearing aids. Mr. Shalev opined the need to examine the percentage of pass-fail results for audiologists taking the HAD exams. Jacque Georgeson (UOP) described the requirement within curriculum standards for testing the knowledge and skill of taking ear mold impressions by audiology students in order for the university's program to be accredited.

## **June 1, 2018 Reconvene at 9:00 a.m.**

Dee Parker, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 10:00 a.m. Ms. Parker called roll; six members of the Board were present and thus a quorum was established.

### **Board Members Present**

Dee Parker, SLP, Board Chair  
Marcia Raggio, AuD, Vice Chair  
Karen Chang, Public Board Member  
Amnon Shalev, HAD, Board Member  
Debbie Snow, Public Board Member  
Patti Solomon-Rice, SLP, Board Member

### **Staff Present**

Paul Sanchez, Executive Officer  
Breanne Humphreys, Program Manager  
Carla Newman, Enforcement Coordinator  
Janson Tant, Deputy Attorney General (DAG)  
Kelsey Pruden, Legal Counsel  
Katrina Martinez, Analyst

### **Guests Present**

Marshall Shoquist, AU  
Timothy Aspinwall, Administrative Law Judge (ALJ)  
Linda Pippert,  
Alex Macilraith  
Carolyn Bower  
Christine Thom  
Marni Novick  
Caitlin Jung  
Deanna Mcoy

## **Petition Hearings for Reinstatement of Licensure of Other Reduction of Penalty (Time Certain: June 1, 2018 at 9:00 a.m.)**

6. Petition for Reinstatement of Surrendered License – Taran Crocker, HA, License # 7542

The Board did not hear or discuss this petition.

7. Petition for Penalty Relief (Termination of Probation) – Marshall Shoquist, AU, License #461

Timothy Aspinwall opened the hearing. Mr. Tant presented the case to the Board. Mr. Aspinwall swore in Marshall Shoquist. Mr. Shoquist presented his case to the Board. Mr. Tant cross examined Mr. Shoquist. Mr. Shoquist responded to the Board's questions. Mr. Tant gave his closing argument. Mr. Shoquist gave his closing argument.

## **Closed Session**

The Board entered into closed session at 11:24 a.m.

8. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate on Above Petitions

Case number 1I 2011-51

The Board deliberated on Mr. Shoquist's petition for penalty relief.

## **Open Session**

The Board returned to open session at 12:30 p.m.

9. Update from Speech-Language Pathology Practice Committee and Possible Action on any recommendations from Committee

Patti Solomon-Rice updated the Board about the SLP Practice Committee meeting held on May 31, 2018. The Committee reviewed letters the Board received in support of tele-supervision. They discussed what "direct monitoring" is and the need for clarification within the regulations. The question of whether tele-supervision can be used to supervise RPE temporary licensees for the monthly requirement of direct monitoring was discussed. Ms. Solomon-Rice explained the need to further explore the issue of tele-supervision and the Committee will work with legal counsel to develop better definitions for supervision of RPE licensees. Ms. Solomon-Rice opined that the type of supervision should be based on the competencies of the RPE licensee. She concluded with the fact that the Committee is not opposed to tele-supervision but a clear outline for the types of supervision is needed.

10. Discussion and Possible Action on Audiology Intraoperative Monitoring

Marcia Raggio briefly reviewed the discussion of intraoperative monitoring (IOM) as part of the scope of practice for audiology from the Board meeting held on February 9, 2018. Ms. Raggio explained the frustration of audiologists being denied payment from insurance companies for IOM and the need for a letter from the Board recognizing IOM as within the scope of practice. A draft of the letter was developed by Ms. Raggio along with assistance from audiologists who perform IOM but there are questions remaining in order to finish writing the letter.

Carolyn Bower answered questions from the Board regarding IOM. She explained that there is not a license offered for IOM nor is there a governing body for IOM. There are certifications available for IOM with different requirements to be certified. A hospital may hire either a technologist or an audiologist to perform IOM but the interpretation of the report is usually done by someone with a doctoral level degree (AuD or MD). She discussed the various ways that audiologists bill for IOM services including billing the insurance companies directly. Ms. Raggio explained that the letter developed does not have language within regulation to define IOM as within the scope of practice. She recommended that audiologists running into the issue of insurance companies denying payment should seek a legislative solution. Paul Sanchez described the need to identify the link between audiology and IOM. He discoursed that the Board cannot change statute to exclude other professions from performing IOM and suggested looking into how other states have handled this situation. Carolyn expressed the desire to add the letter to the Board's website in order to provide a link to the letter more easily. Mr. Sanchez explained that he will work with legal counsel

to explore additional information required within the letter. Amnon Shalev asked whether there is evidence that MD professionals receive more training or education for IOM. Carolyn responded that there is evidence that *some* MDs actually receive *less* training within their curriculum.

## 11. Executive Officer's Report

### a. Administration Update

Mr. Sanchez informed the Board that there has been some recent staff turnover. He reminded the Board of the two positions approved for the new fiscal year. Presently recruiting for three vacancies (two in enforcement and one in licensing) in addition to the two new positions. Ms. Humphreys reported to the Board that on Monday a licensing analyst will join Board staff and a current licensing analyst will be promoted to an enforcement analyst.

### b. Budget Report

Mr. Sanchez reviewed the FY 2017-2018 budget report with the Board. He informed the Board that we will soon update our database and software systems which will require funding. In addition to this, Mr. Sanchez expressed the need for licensees to renew their licenses online. These items will be included in future projections. Proposed fee increases will help to balance future costs.

### c. Licensing Report

Mr. Sanchez showed the number of licenses issued thus far in the FY 2017-2018. He explained that the Board's licensing population is experiencing growth.

### d. Practical Examination Report

Mr. Sanchez disclosed the results of the February 24, 2018 HAD practical exam. Mr. Shalev pointed out the number of audiologists who failed the exam and expressed the desire to see previous statistics.

### e. Enforcement Report

Mr. Sanchez reviewed the number of enforcement cases the Board has had over the past few years and explained that the averages are often skewed by one case that takes longer to process but overall the average is about three years for disciplinary matters.

## 12. Proposed Regulations – Discussion and Possible Action

### a. Title 16, CCR, Sections 1399.170.13 and 1399.170.14– Speech-Language Pathology Assistant Application and Requirements for Renewal

The Board reviewed the updated application, application checklist, and the associated fieldwork experience/employment work experience verification forms for registration as a speech-language pathology assistant. If the proposed regulation to include course requirement for SLPA regulations and scope of practice is approved the application will need to be updated to include question pertaining to this course.

### b. Title 16, CCR Sections 1399.152.2, 1399.153, 1399.170, 1399.170.4, 1399.170.6, 1399.170.10, 1399.170.11, and 1399.170.15 – Speech-Language Pathology Supervised Clinical Experience,



Required Professional Experience Speech-Language Pathology Assistant Training Programs,  
Speech-Language Pathology Assistant Requirements and Qualifications for Registrations

The Board reviewed proposed changes to regulations including changes that have been approved in the past but are still pending approval. Edits made to the definition of “direct supervision” and the licensure requirements for supervisors were noted. Kelsey Pruden explained why the proposed changes have been removed for clarification purposes or to reduce redundancy. Additional proposed changes include a change to minimum fieldwork hours required to maintain consistency with ASHA requirements and national standards and to include evidence of completion of a course specific to SLPA regulations and scope of practice for bachelor’s degree holders.

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

- **Motion to notice regulation changes and delegate authority to the EO to make non-substantive changes. Motion carried 6-0**

- c. Title 16, CCR, Sections 1399.131 & 1399.155 - Disciplinary Guidelines

Mr. Sanchez explained to the Board that the Disciplinary Guidelines have not been updated for many years. Ms. Pruden described the difficulty in combining the guidelines for the Hearing Aid Dispensing side and the Speech-Language Pathology/Audiology side of the Board. The result is an entirely new document. Guidelines should be specific enough but will act as a guide; it does not need to be all-inclusive. The Board discussed the new document and recommended minor changes.

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

- **Motion to approve proposed language as modified and direct the EO to take necessary steps to initiate rule-making process, make non-substantive changes, and post proposed text for 45-day public comment period. Motion carried 6-0**

13. Legislation Update, Review, and Possible Action

- a. AB 2138 (Chiu) Licensing boards: denial of application: criminal conviction

Alex Macilraith provided an overview of AB 2138. Mr. Macilraith explained that he has given the Board a high-level summary of the bill and that its purpose is to reduce barriers to licensure for applicants with criminal convictions. The bill would restrict Boards in making licensing determinations based on criminal convictions that have occurred within the previous five years only (excluding violent felonies). It limits the denial of a license only if the crime is directly and adversely related to the profession for which licensure is sought. The bill would prohibit the Boards denial of a license based on convictions that have been dismissed or expunged or if a showing of rehabilitation has been made. Probationary licenses would be limited to two years in length.

Mr. Sanchez further explained what this bill would mean to the Board. He discussed the fact that the Board’s primary concern is to protect the consumers. He questioned how the Board would like to respond to the bill. Mr. Macilraith described the impetus to reduce barriers for recidivism.

**M/S/C Shalev/Snow**

- **Motion to write a letter in opposition of AB 2138. Motion carried 5-0 with Ms. Chang abstaining**

b. AB 1659 (Low) Healing arts boards: inactive licenses

Mr. Macilraith provided an overview of AB 1659 which would give the option for Boards to offer a reduced fee for inactive license renewals. The Board discussed what an “inactive” license is and why a licensee would want an inactive license.

#### 14. Future Agenda Items and Future Board Meeting Dates

Future agenda items include supervision of HAD trainees, RPE tele-supervision regulations, California Children’s Services, locked hearing aids, and HAD practical exam for audiologists

- a. August 9-10, 2018 – San Diego
- b. November 8-9, 2018 – Sacramento
- c. February 7-8, 2019 – Los Angeles
- d. May 2-3, 2019 – TBD

#### 15. Adjournment

The meeting adjourned at 2:45 p.m.

July 06, 2018

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board  
California  
2005 Evergreen St., Ste. 2100  
Sacramento, CA 95815

Sent Electronically: [diane.manning@dca.ca.gov](mailto:diane.manning@dca.ca.gov)

Re: U.S. Department of Labor National Guidelines for Apprenticeship Standards for Hearing Aid Specialists

Dear Members of the Board:

We are thrilled to announce that the United States Department of Labor (DOL) has re-certified the IHS National Guidelines for Apprenticeship Standards for Hearing Aid Specialists (herein referred to as "standards.") Originally approved in 2015, the standards now reflect the course content of the new IHS Distance Learning Course, and are available for use by employers and state licensing authorities.

These standards define a nationally approved and recognized apprenticeship program that can be used by hearing aid specialist candidates to obtain a certificate of completion from their State Apprenticeship Agency (SAA) for successfully completing the program. We believe this program will have far-reaching effects in terms of recruitment, retention, standards of care, and reciprocity, and will help ensure that people with hearing loss have access to high-quality, competent hearing aid professionals for their hearing aid needs.

IHS reached out to all licensing authorities across the country in 2015 with information about the program, but we wanted to reach out with this letter to provide information about the program's relaunch with pertinent information.

### **Program Development**

The International Hearing Society (IHS) worked closely with the DOL leading up to its adoption and certification of the guidelines in order to understand the nature of its national apprenticeship programs and determine the appropriateness of establishing national guideline standards for a hearing aid specialist apprenticeship program. The DOL embraced the opportunity, making ours a priority of the department. The extended period of review was necessary for both the DOL and IHS in order to establish an appropriate foundational education and training experience for candidates, and ensure national requirements are met. During the initial process in 2015, eight national employers and three state licensing agencies were invited by the DOL to provide comments on IHS' proposed standards. All comments came back supportive of the standards. With the re-certification of the program this year, a second round of feedback was procured from

a number of additional organizations and employers involved with the profession. The outcome is a strong program that will best prepare candidates to pass required state licensing examinations and upon licensure, provide safe and effective care for the hearing loss population.

The Standards outline a two-year competency-based program that incorporates both hands on learning through its “On the Job” (OTJ) training requirements, and self-study through its “Related Instruction” requirements. The OTJ learning is based on the IHS Trainer Manual, which is the best tool for applied learning and compliments the IHS Distance Learning Course, which is included in the Related Instruction component of the program. Related Instruction also includes education related to Federal Trade Commission and Food and Drug Administration rules, as well as state laws and regulations pertaining to hearing aid dispensing. Accounting for the fact that variations in the learning speed and motivations for each candidate will exist, the program being “competency-based” will allow for candidates to complete the program in less than two years – once their supervisor deems them to have met the program requirements.

Now that the Standards are final, the implementation is left up to the states. As stated in the Standards, “State Apprenticeship Agencies recognized by the Office of Apprenticeship to register local programs, and/or local laws and regulations, may impose additional requirements that must be addressed in the local apprenticeship standards. Local Standards of Apprenticeship must be developed and registered by each sponsor that undertakes to carry out an apprenticeship-training program. The local Standards of Apprenticeship will be the sponsor’s written plan outlining all terms and conditions for the recruitment, selection, employment, training, and supervision of apprentices as subscribed by the sponsor, and must meet all the requirements of the Registration Agency.”

On May 24, 2018, the U.S. DOL released the standards to the State Apprenticeship Agencies (attached). We recommend your licensing agency connect with your SAA to discuss the existing requirements for entry to the field and explore the potential of integrating the SAA’s program into your state licensing process as an option for satisfying any existing apprenticeship program/period requirement. It is important to note that IHS does not recommend making this the sole path by requiring all apprentices to utilize the program as a condition of licensure as doing so could create an unwarranted barrier to entering the profession.

A description of the work performed by a hearing aid specialist included in the Standards provides a potential apprentice the opportunity to understand the services that can be provided by hearing aid specialists. The description does not, nor was it ever intended to, set new ground in defining the scope of practice of a hearing aid specialist. All of the tasks listed were drawn from licensure laws for hearing aid specialists from across the country. Neither the Bureau of Labor Statistics, nor the U.S. Department of Labor define a profession’s scope of practice. As you know, this is defined by each individual state and is why the Description included in the Work Process Schedule begins with, “In a manner consistent with state law...” This descriptive paragraph does not have any impact on the state licensing laws that define scope of practice, and can be modified by the SAA to reflect permissible tasks as defined by state law. The Related Instruction Outline, which supports the Work Process Schedule details, in part, includes an intensive educational focus on State Licensing Laws and Regulations. This inclusion emphasizes the importance of an apprentice understanding what is permitted and what is not permitted practice in their state.

Once a candidate has successfully completed the program and obtained their certificate of completion, the State Apprenticeship Agency and supervisor then deem them ready to take their licensing examinations. The licensing examinations would continue to be overseen and directed by the state licensing agency as they are currently, and are distinct from the apprenticeship program.

### **Timeliness of the Program**

Based on a report in the Journal of the American Academy of Audiology (Freeman and Windmill, Demand for Audiology Services: 30-Yr Projections and Impact on Academic Programs, 2013), we estimate a hearing loss population of 53 million people by 2050, and a projected need of 22,000 hearing aid specialists by the year 2021 - meaning the hearing aid specialist profession is in demand. Recognizing this inherent need, IHS sought out innovative ways to attract qualified and motivated candidates to the profession. The DOL's Leader for Apprenticeship program is an excellent vehicle to facilitate the entrance of qualified individuals into the entry level of the hearing aid specialist profession. Further, State Apprenticeship Agencies offer potential employers the opportunity to connect with thousands of candidates who are looking for full-time, meaningful employment.

### **Benefits of Using the Program**

There are numerous benefits for state licensing agencies that integrate the new apprenticeship path into their licensing process, including:

- Standardized training across the country for the Hearing Aid Specialist profession
- Exposes untapped talent pool to hearing aid dispensing profession
- Method for assisting with obtaining reciprocity
- State Apprenticeship Agency vets candidates and supervisors, maintains relationship
- Will produce strong candidates for licensure
- Improved quality of patient care
- More diverse workforce
- Associated with a nationally-recognized system of training throughout the United States
- Supports state-based hiring programs

Even though employers are not required to use the program, they will be incentivized to use it as an option. Some of the benefits for both employers and apprentices include:

- Teaching employees new skills increases productivity, decreases turnover along with absenteeism and saves employers money spent on training
- Enhances retention. Investing in the future of employees through this program can strengthen employee loyalty to employers
- Enhances problem-solving ability and versatility of employees
- Possible tax and other business incentives for hiring Veterans or candidates from state hiring programs like vocational rehabilitation

Any employer can work with the SAA to usher their trainee through the program. Even though the certificate of completion may not be formally recognized by the state licensing agency at this time,

the employer and trainee will know that the trainee has completed a comprehensive program that will best prepare them for their state licensing examinations, and that his/her certificate of completion may be a useful reciprocity tool in the future.

### **What's Next**

Going forward, IHS seeks to partner with you and your SAA to help establish the apprenticeship program in your state in a way that will maintain meaningful licensing standards while integrating the nuances of your state's licensure requirements into the SAA's hearing aid specialist apprenticeship program, such as existing restrictions on the number of apprentices per sponsor. This will allow the state to bring a consistent program to fruition so that qualified candidates can pursue a career as a hearing aid specialist. We recognize there may be a need to update licensing laws or rules to formally integrate the program into the licensing process, and stand prepared to assist. IHS' Government Affairs team can be reached at [advocacy@ihsinfo.org](mailto:advocacy@ihsinfo.org) at or 734.522.7200. Understanding that the opening of licensing laws must be appropriately timed since doing so can place existing policy at risk, we expect the adoption of this program by state licensing agencies will take time, and IHS is committed to working with you through the process. In the meantime, apprentices in most states should be able to participate in the registered apprenticeship in parallel with the state's current training requirements thanks to the unified training material. Sponsors and apprentices must, however, be mindful to complete the requirements of both programs. This will allow apprentices and their employers to benefit from the financial and other benefits of the apprenticeship program now without having to wait for the formal recognition in state law of the program as a path to licensure.

We look forward to partnering with you on this exciting opportunity, and invite you to contact us with questions or to determine next steps.

Thank you for the important work you do to ensure consumers receive the best possible care and hearing aid dispensing professionals are competent to perform the work at hand and are held to high ethical standards.

Sincerely,



**Kathleen Mennillo, MBA**  
Executive Director

Attachment



## MEMORANDUM

<b>DATE</b>	August 3, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action regarding the Examination Requirements for Dispensing Audiologists</b>

### BACKGROUND

At the May 31, 2018 Board meeting Heidi Lincer-Hill, Chief, Office of Professional Examination Services (OPES), presented the 2017 Occupational Analysis of the Audiology and Dispensing Audiology professions. The presentation included information regarding OPES' analysis of the examinations required for licensure of dispensing audiologists.

Based on the Occupational Analysis (OA), OPES determined that audiologists wishing to dispense hearing aids should not have to take the hearing aid dispensers' practical examination and recommended that the Board should evaluate further, whether the practical examination was creating an unnecessary barrier to licensure.

OPES analysis included qualitative data from Subject Matter Experts who attended OA workshops. During the workshops there was a consensus that the hearing aid dispenser's practical examination was designed for hearing aid dispensers who have different licensing requirements than audiologists. Audiologists who take the HAD examinations already have doctoral level of education and training which include supervised clinical experience and performance-based assessment on hearing aid dispensing (taking ear impressions, assessing and fitting patients for hearing aids, programming and troubleshooting hearing aids). These tasks were incorporated into the curriculum when the audiologist educational requirements changed from masters to doctoral level programs in 2008.

Current law, Business and Professions Code (BPC) section 2539.1(a) requires that audiologists must "pass an examination, approved by the Board, relating to selling hearing aids" to lawfully sell hearing aids in California.

**Business and Professions Code § 2539.1.**  
**Dispensing audiology license required to sell hearing aids**

(a)(1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she completes an application for a dispensing audiology license, pays all applicable fees, and passes an examination, approved by the board, relating to selling hearing aids.

In BPC section 2391.1 (d) the Board is directed to provide the examination provided at the time by the Hearing Aid Dispensers Bureau (HADB) until DCA completes an examination validation and occupational analysis and a determination is made that a different examination is to be administered. This section of the law was enacted by AB 1535 which enacted the 2010 merger of the HAD Bureau and the Speech-Language Pathology and Audiology Board. The examinations provided by the HADB at the time consisted of the HAD Written and Practical Examinations. Since the merger, the HAD examinations have been updated but the requirements have not changed for HAD and dispensing audiologists.

**Business and Professions Code § 2539.1.**

(d) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

According to BPC 2539.1 (d), the Board should evaluate the current examination requirements for audiologists who wish to dispense hearing aids and consider whether a different examination should be administered or if the current examinations are appropriate based on the information that has been provided by OPES.

Tracy Montez, Chief of DCA Programs and Policy Review and Heidi Lincer-Hill, Chief of Office of Professional Examination Services, will be present to discuss OPES' findings and analysis regarding this issue.

**ACTION REQUESTED**

The Board should evaluate the current examination requirements for audiologists who wish to dispense hearing aids and consider whether a different examination should be administered or the current examinations are appropriate.





OFFICE OF PROFESSIONAL EXAMINATION SERVICES  
 2420 Del Paso Road, Suite 265, Sacramento, CA 95834  
 P (916) 575-7240 F (916) 575-7291



## MEMORANDUM

<b>DATE</b>	March 19, 2018
<b>TO</b>	Paul Sanchez, Executive Officer Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	<i>Heidi Lincer</i> Heidi Lincer, Ph.D., Chief Office of Professional Examination Services
<b>SUBJECT</b>	OPES recommendations regarding licensing requirements for dispensing audiologists

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) requested that the Office of Professional Examination Services (OPES) review and make recommendations on the Board's licensing requirements for dispensing audiologists. OPES conducted the review as part of the 2017 Occupational Analysis (OA) of the Audiologist Profession and the 2018 Review and Linkage Study of the Praxis Audiology Test developed by Educational Testing Service for the American Speech-Language-Hearing Association (ASHA).

### INFORMATION REVIEW

OPES considered the following information to provide recommendations for the Board:

- 1) Licensure requirements for both hearing aid dispensers and audiologists;
- 2) Comparison of the hearing aid dispenser description of practice from the 2012 OA to the audiology description of practice from the 2017 OA. The 2012 OA is used as the basis for the hearing aid dispenser written and practical examinations;
- 3) Comparison of the audiologist description of practice from the 2017 OA to the 2017 ASHA Audiology Practice and Curriculum Analysis used as the basis for the Praxis Audiology test;
- 4) Results from facilitated discussions with a total of 17 audiologist subject matter experts (SMEs) during 3 workshops conducted in June, July, and December of 2017;
- 5) Accreditation standards from the Council on Academic Accreditation (CAA) (2013) and the Accreditation Commission for Audiology Education (ACAE) (2016); and

- 6) Descriptions of relevant courses and assessments from the San Diego State University / University of California, San Diego joint audiology doctoral program and the University of the Pacific audiology doctoral program.

## EVALUATION

The licensure qualification requirements for hearing aid dispensers and dispensing audiologists differ significantly. To qualify for licensure, hearing aid dispensers must be 18 years old and possess a high school diploma or equivalent. To become licensed, hearing aid dispensers must pass the hearing aid dispenser written and practical examinations.

In contrast, dispensing audiologists must hold a doctoral degree or equivalent in audiology from an accredited educational institution, complete 300 hours of supervised clinical practicum in three different clinical settings, and complete one year of externship. To become licensed to practice audiology, applicants must first pass a national audiology examination. To become licensed to dispense hearing aids, audiologists must also pass the hearing aid dispenser written and practical examinations.

Professional standards and guidelines for licensure examinations prescribe that OA task and knowledge statements be developed by a representative group of licensees in the profession. It is important to describe the profession from the licensee's perspective, especially when there is overlap between two licensed professions. To maintain the perspective of audiologists, OPES developed the 2017 audiology tasks and knowledge statements independently of the 2012 hearing aid dispensing tasks and knowledge statements.

To determine if the hearing aid dispensing tasks and knowledge were subsumed within the audiologist description of practice, OPES asked the audiologists serving as SMEs for the 2017 OA to conduct an additional analysis. SMEs were asked to evaluate the current hearing aid dispensing task and knowledge statements against the newly developed audiology task and knowledge statements. The SMEs determined that all hearing aid dispensing tasks and knowledge were substantially represented. The only task and knowledge statements not included in the audiology description of practice were those related to maintaining a hearing aid dispensing license.

Further documentation that all items related to hearing aid dispensing are part of audiology practice was provided by the 2018 linkage study. The SMEs were asked to compare the California 2017 OA description of practice with the results of the 2017 ASHA Audiology Practice and Curriculum Analysis. This analysis is used as the basis for the Praxis Audiology test. Taken together, the two evaluations document that hearing aid dispensing is a component of audiology practice in California, and it is assessed on the national examination that is required for California licensure.

OPES wanted to gather additional information about audiologist education and clinical training, as well as audiologists' impressions about the hearing aid dispenser practical examination. OPES facilitated a discussion with three overlapping groups of SMEs consisting of dispensing and non-dispensing audiologists. There was consensus among the SMEs that the hearing aid dispenser practical examination was designed for hearing aid dispensers with very little training and experience, and not for the greater depth and breadth of audiologists' doctoral level education and training. The SMEs indicated that supervised clinical experience and performance-based assessment on hearing aid dispensing (e.g., taking ear impressions, assessing and fitting patients for hearing aids, programming and troubleshooting hearing aids) were incorporated into the curriculum when audiologist educational requirements changed from master's to doctoral level programs in 2008.

The SMEs also agreed that dispensing audiologists should be required to pass the hearing aid dispenser written examination to ensure licensee knowledge of California laws and regulations. There was an additional suggestion that continuing education could possibly be substituted for the practical examination requirement.

As a final verification of the information provided by the SMEs about their education and training, OPES reviewed the CAA and ACAE accreditation standards for audiology doctoral programs. The standards require didactic and clinical experiences encompassing the entire scope of audiology practice, including specific competencies and both written and practical assessments. OPES also reviewed course and assessment descriptions for tasks related to hearing aid dispensing offered by two audiology doctoral programs. Based on the materials reviewed, it appears that students successfully completing these programs should graduate with the skills to perform hearing aid dispensing tasks safely and competently.

### CONCLUSIONS AND RECOMMENDATIONS

In conclusion, OPES believes that the training, clinical experience, and examinations required for audiologists to become licensed provides sufficient evidence of minimum competence to perform the skills to dispense hearing aids. From a licensing perspective, the relationship between audiologists and hearing aid dispensers is similar to the relationship between dentists and dental hygienists. Dental hygiene is a component of dental practice, but has its own license. Dental hygiene tasks and knowledge are included in the dentist scope of practice, yet dentists are not required to take the dental hygiene practical examination.

If the Board decides to allow audiologists to dispense hearing aids without passing the practical examination, OPES believes that this decision would not impose a public safety risk. Changing the licensing requirement would also provide an opportunity for the Board to reduce unnecessary licensure barriers.

OPES Recommendations  
Page 4

OPES recommends that the Board continue to require dispensing audiologists to pass the hearing aid dispenser written examination. This meets the Board's requirements under Business and Professions Code, section 2539.1 (a), which states that audiologists must pass an examination related to selling hearing aids.

If you have any questions about OPES recommendations, please contact me at 916-575-7265.

cc: Tracy Montez, Ph.D., Chief  
Division of Programs & Policy Review



## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Update of Board's Consumer Fact Booklet on Hearing Loss and Hearing Aids</b>

### BACKGROUND

Board members and staff have worked with DCA Publications on the development of a consumer resource document that explains general aspects of hearing aids and their uses, including telecoils. The fact sheet could help consumers better understand hearing aid features and their uses.

### ACTION REQUESTED

This item is informational. Board staff will present the final version of the consumer fact booklet entitled, *Hearing Loss and Hearing Aids*; developed and designed by DCA Publications.



## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action regarding Communications with California Children's Services (CCS)</b>

### BACKGROUND

Marcia Raggio, Board Vice Chair, will provide an update on the most recent meetings and communications with CCS. The purpose of the ongoing communications between the Board, CCS, and stakeholders is to work collaboratively on improving statewide access to audiology services for CCS recipients.

### ACTION REQUESTED

This item is an update and will not likely require action from the Board.



## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action Regarding the Speech-Language Pathologist Credential Variable Term Waiver Program in California's Public Schools</b>

Board Chair Dee Parker will provide an oral update on this item.



## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action Regarding the July 24, 2018 FDA Letter Regarding Over-the Counter Hearing Aids and Requirements</b>

### BACKGROUND

Included in your materials is a letter from the FDA to Hearing Aid Manufacturers dated July 24, 2018 regarding Section 709 of the FDA Reauthorization Act of 2017 clarifying certain statutory and future regulatory requirements.

### ACTION REQUESTED

This item is for discussion. Marcia Raggio, Vice Chair, will provide an update on the FDA letter.





July 24, 2018

Dear Hearing Aid Manufacturer:

In section 709 of the [FDA Reauthorization Act of 2017 \(FDARA\)](#), Congress enacted a definition, outlined certain requirements, and set forth a process for establishing a category of over-the-counter (OTC) hearing aids and the requirements that apply to them. That statutorily mandated process provides for FDA to publish proposed regulations by August 18, 2020, to consider public comments, and then to publish final regulations within 180 days of the close of the comment period. Section 709 also includes a preemption provision stating that no state or local law can be different from, in addition to, or not identical to, the regulations that FDA will establish for OTC hearing aids under authority of FDARA.

Section 709 reflects a careful balance between consumer access to new technologies and consumer protections to assure the safety and effectiveness of OTC hearing aids. The protections include output limits, appropriate labeling, advisements about when to consult with a licensed health care practitioner, and guidance on when premarket review by FDA would be required.

Section 709 is not self-implementing, meaning that the OTC hearing aid category, as defined by FDARA section 709, does not exist until the effective date of a published final regulation. Until that time, no products that are claimed to address hearing loss are, or can claim to be, OTC hearing aids within the meaning of FDARA section 709. Currently, hearing aids continue to be restricted devices, for which sales must follow applicable federal and state requirements. FDA has published a guidance document stating that the agency will not enforce the requirement for a medical evaluation or waiver under 21 CFR 801.421, but manufacturers should be mindful of any similar state law requirements.

If you have questions about this communication, please contact the Division of Industry and Consumer Education (DICE) at [DICE@FDA.HHS.GOV](mailto:DICE@FDA.HHS.GOV) 800-638-2041 or 301-796-7100.

Sincerely,

/s/

William Maisel, MD, MPH  
Director, Office of Device Evaluation  
Director, Office of Compliance (Acting)  
Chief Medical Officer  
Center for Devices and Radiological Health  
U.S. Food and Drug Administration

U.S. Food & Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20903  
[www.fda.gov](http://www.fda.gov)



## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Executive Officer Report</b>

This report and the statistical information provided by staff, is to update you on the current operations of the Board.

### **Administration/Personnel/Staffing**

The Board office currently has a total of four vacancies that include the following:

- Regulations/Administration Associate Analyst (BCP Position) – Interviews held and anticipated hire by August.
- Office Technician – Licensing/Administration – Interviews to be held in early August.
- Enforcement Analyst – Position Advertised July and interviews to be held in August.
- Enforcement Analyst – Position Advertised July and interviews to be held in August.

### **Budget**

Budget reports were not available to staff in time to report but will be available as hand carry items at the August 9-10, 2018 Board meeting in San Diego.

### **Licensing/Exams/Enforcement**

Continuing Education Compliance Audit of the Board Licensees – Board staff completed the 2018 continuing education compliance audit. The report is included in your Board materials.

Report highlights:

- A total of 733 licensees from all license types were randomly selected and audited for compliance during their last renewal cycle.
- The initial pass rate was 79 percent (579).
- Approximately, 17 percent (126) failed the initial audit and approximately 4 percent (28) did not respond.
- To date, as of July 1, 2018, of those who failed the initial audit, 81 licensees corrected their deficiency.

Licensing Cycle Times – The chart below represents the Board’s licensing timeframes for licensing processes during the specified period. The number of licenses processed has increased at a rate of eight percent annually. Despite the increase, licensing staff are working have met or exceeded its performance measures in licensing for the 2017-18 fiscal year. Part of the success can be attributed to the additional staff obtained through the 2016-17 BCP which has helped the Board avoid licensing backlogs during the past year.

Licensing Cycle Times	8/1/17	11/1/17	2/1/18	5/1/18	8/1/18
SLP and Audiologists Complete Licensing Applications	4 weeks	1 week	1 week	2 weeks	4weeks
Review and Process SLP and Audiologist Supporting Licensing Documents	6 weeks	1 week	1 week	1 week	2 weeks
Review and Process RPE Applicant’s Verification Forms for Full Licensure	3 weeks	2 weeks	1 week	1 week	2 weeks
Hearing Aid Dispensers Applications	3 weeks	Current	Current	Current	Current

Enforcement – The number of complaints and convictions received by the Board exceeded last fiscal year’s totals by over 100 percent. While the number of convictions reported exceeded last fiscal year’s total by 27 percent. The increase is a result of anonymous complaints received by the Board. Consequently, the increased workload has resulted in longer cycle times for completing investigations.

There are currently 15 formal discipline cases pending with the Attorney General’s Office. The Board is currently monitoring 27 probationers of which 7 probationers require drug or alcohol testing and 10 are in a tolled status.

The following disciplinary actions were adopted by the Board in 2017-2018:

Name	License No.	License Type	Case No.	Effective Date	Action Taken
Ling, Kyle York	HA 7954	Hearing Aid Dispenser	1C 2015 090	April 29, 2018	Revocation Stayed, Four Years Probation (Conditional upon passing written and practical hearing aid dispensers examination) with Specified Terms and Conditions
Reynolds, Maria	SP 18467	Speech-Language Pathologist	1I 2017 037	February 20, 2018	Stipulated Surrender of License
Garrett, Bobbie Lee	AU 690	Audiologist	1I 2015 43	December 8, 2017	Stipulated Surrender of License
Ferguson, Caitlin	SPA 2718	Speech-Language Pathology Assistant	1C 2014 034	December 5, 2017	Revocation of License
Keeler, John	HA 2693	Hearing Aid Dispenser	1C 2016 029	October 27, 2017	Revocation Stayed, Four Years Probation with Specified Terms and Conditions
Simon, Christopher	HA 7485	Hearing Aid Dispenser	1C 2014 007	October 26, 2017	Revocation Stayed, Five Years Probation with Specified Terms and Conditions
Peacock, Melissa	HA 7070	Hearing Aid Dispenser	1C 2015 031	September 15, 2017	Revocation of License
White, Christine	SP 21236	Speech-Language Pathologist	1I 2016 048	August 21, 2017	Revocation Stayed, Five Years Probation with Specified Terms and Conditions
Johnson, Heather	SP 22185	Speech-Language Pathologist	1I 2014 058	July 31, 2017	Public Repeal
Ross-Frederick, Jacie	HA 7893	Hearing Aid Dispenser	1C 2015 059	July 31, 2017	Revocation of License

Name	License No.	License Type	Case No.	Effective Date	Action Taken
Bransgrove, Gabriele	SP 10814	Speech-Language Pathologist	1I 2016 001	July 7, 2017	Stipulated Surrender of License

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

<b>LICENSES ISSUED</b>	<b>FY12/13</b>	<b>FY13/14</b>	<b>FY14/15</b>	<b>FY15/16</b>	<b>FY16/17</b>	<b>FY17/18</b>
AU	76	57	89	48	53	77
DAU	19	UA	UA	26	24	30
AUT	1	0	0	0	0	2
SLP	1056	974	1143	1352	1457	1482
SPT	0	0	0	0	0	0
SLPA	407	325	550	606	501	558
RPE	727	702	836	834	897	945
AIDE	51	40	48	44	44	33
CPD	9	15	17	22	21	20
HAD Permanent	84	49	92	140	120	137
HAD Trainee	95	139	145	180	152	169
HAD Licensed in Another State	7	5	9	16	16	20
HAD Branch	132	282	426	407	315	341
<b><i>TOTAL LICENSES ISSUED</i></b>	<b>2664</b>	<b>2588</b>	<b>3355</b>	<b>3675</b>	<b>3600</b>	<b>3814</b>

<b>LICENSEE POPULATION</b>	<b>FY12/13</b>	<b>FY13/14</b>	<b>FY14/15</b>	<b>FY15/16</b>	<b>FY16/17</b>	<b>FY17/18</b>
					*	*
AU	609	584	612	556	698	720
DAU	942	971	988	1,045	1,211	1,246
<i>Both License Types</i>	<i>1,551</i>	<i>1,555</i>	<i>1,600</i>	<i>1,601</i>	<i>1,909</i>	<i>1,966</i>
AUT	0	0	0	0	0	0
SLP	12,696	13,285	13,967	14,860	18,024	19,161
SPT	0	0	0	0	0	0
SLPA	1,771	1,969	2,343	2,795	3,752	4,118
RPE	682	768	802	806	1,174	1,232
AIDE	120	119	124	133	235	216
HAD	946	913	948	996	1,179	1,266
HAD Trainees	95	145	160	158	238	204
HAD Licensed in Another State	9	8	7	18	18	28
HAD Branch Office	653	710	821	963	1,409	1,297
<b><i>TOTAL LICENSEES</i></b>	<b>18,523</b>	<b>19,472</b>	<b>20,772</b>	<b>22,330</b>	<b>27,938</b>	<b>29,488</b>

\* New Computation: includes delinquent, inactive, and valid licenses; CE not adequate; cite/fine holds

April 21, 2018 Hearing Aid Dispensers Practical Examination

Candidate Type	Number of Candidates	Passed	%	Failed	%
<b>Applicants with Supervision (Temporary License)</b>					
HA	29	24	83%	5	17%
AU	2	1	50%	1	50%
RPE					
Aide					
<b>Applicants Licensed in Another State (Temporary License)</b>					
HA	1			1	100%
AU	2	1	50%	1	50%
<b>Applicants without Supervision</b>					
HA	12	9	75%	3	25%
AU	5	5	100%		
RPE					
<b>Total Number of Candidates</b>		<b>Passed</b>	<b>%</b>	<b>Failed</b>	<b>%</b>
	51	40	78	11	22

# Speech-Language Pathology Audiology Hearing Aid Dispensers Board

	FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018	
<b>COMPLAINTS AND CONVICTIONS</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Complaints Received	56	41	74	43	75	59	154	157
Convictions Received	4	27	27	58	15	84	24	101
Average Days to Intake	31	31	2	2	3	2	2	2
Closed	107	46	109	130	76	124	121	214
Pending	55	56	46	31	56	51	117	100

*Average cycle time from complaint receipt, to an investigator. DCA Performance Measure:*

	FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018	
<b>INVESTIGATIONS Desk</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	59	64	101	101	90	143	178	257
Closed	89	41	107	124	71	118	113	205
Average Days to Complete	339	250	107	138	132	91	201	73
Pending	46	48	42	30	45	39	104	89

	FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018	
<b>INVESTIGATIONS DOI</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	2	3	0	2	11	9	10	7
Closed	15	2	2	6	5	6	8	9
Average Days to Complete	722	527	392	382	148	709	442	497
Pending	6	3	4	1	11	12	13	10

	FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018	
<b>ALL TYPES OF INVESTIGATIONS</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Closed Without Discipline	83	37	93	112	69	111	116	197
Cycle Time - No Discipline	347	234	74	115	125	69	210	73

*Average cycle time from complaint receipt to Does not include cases sent to the AG or other DCA Performance Measure: Target 90 Days.*

	FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018	
<b>CITATIONS/Cease&amp;Desist</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Issued	3	8	4	5	8	8	9	12
Avg Days to Complete Cite	292	188	195	305	98	44	7	169
Cease & Desist Letter	5	1	0	1	1	1	2	1



# Speech-Language Pathology Audiology Hearing Aid Dispensers Board

<b>ATTORNEY GENERAL CASES</b>	<b>FISCAL YEAR 2014 - 2015</b>		<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>	
	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Pending at the AG	17	13	18	16	8	6	7	11
Accusations Filed	5	6	8	19	2	3	3	2
SOI Filed	0	0	2	2	0	0	1	1
Acc Withdrawn, Dismissed, Declined	0	0	1	0	2	1	2	1
SOI Withdrawn, Dismissed, Declined	1	1	0	0	1	1	0	0
Average Days to Discipline	1336	234	888	507	1260	979	780	723

*Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and*

<b>ATTORNEY GENERAL FINAL OUTCOME</b>	<b>FISCAL YEAR 2014 - 2015</b>		<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>	
	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Probation	1	1	1	5	6	7	2	1
Surrender of License	0	1	1	1	3	1	1	2
License Denied (SOI)	0	0	0	0	0	0	0	0
Suspension & Probation	0	0	0	1	0	0	0	0
Revocation-No Stay of Order	1	3	1	2	0	2	1	0
Public Reprimand/Reproval	0	0	0	0	0	0	0	1

# 2018 Continuing Education Audit

## Summary of Results

A random sample of eligible licensees were chosen in November 2017 for the CE Audit. Eligible licensees included all active licenses with correct addresses on file (total eligible licenses according to report pulled by OIS: 14,736).

## Licensees Chose for Audit

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	NUMBER	PERCENTAGE
Hearing Aid Dispensers	24	3.49%
Audiologists	18	5.08%
Dispensing Audiologists	46	
Speech-Language Pathologists	549	5.04%
Speech-Language Pathology Assistants	96	5.09%
<b>TOTAL</b>	<b>733</b>	

*Total number chosen for audit adjusted for licensees audited in error (licenses erroneously not placed into inactive status when renewed or licenses that were cancelled).*

*\*3.5% sample pulled from hearing aid dispensers was adjusted to not included licensees who were notified late regarding CE requirement change.*

*\*5% sample pulled from audiologists included dispensing audiologists.*

# Audit Results

As of 6/30/2018

## Passed

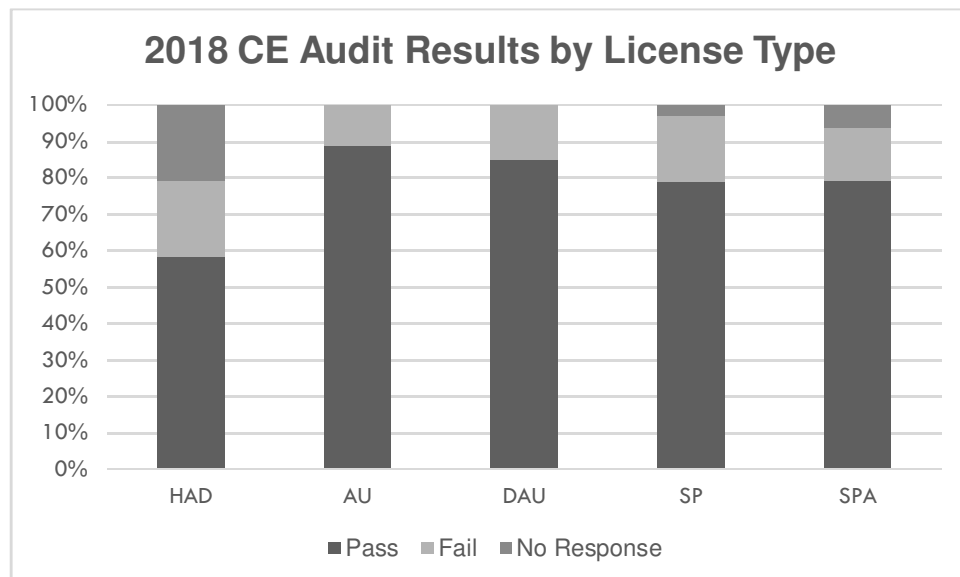
Hearing Aid Dispensers	14	58.33%
Audiologists	16	88.89%
Dispensing Audiologists	39	84.78%
Speech-Language Pathologists	434	79.05%
Speech-Language Pathology Assistants	76	79.17%
<b>TOTAL PASSED</b>	<b>579</b>	<b>78.99%</b>

## Failed

Hearing Aid Dispensers	5	20.83%
Audiologists	2	11.11%
Dispensing Audiologists	7	15.22%
Speech-Language Pathologists	98	17.85%
Speech-Language Pathology Assistants	14	14.58%
<b>TOTAL FAILED</b>	<b>126</b>	<b>17.19%</b>

## No Response

Hearing Aid Dispensers	5	20.83%
Audiologists	0	0%
Dispensing Audiologists	0	0%
Speech-Language Pathologists	17	3.10%
Speech-Language Pathology Assistants	6	6.25%
<b>TOTAL NO RESPONSE</b>	<b>28</b>	<b>3.82%</b>



## Reasons for Failing the Audit

### Exceeded the limit for self-study hours

Speech-Language Pathologists	21
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### Completed courses from non-approved providers

Speech-Language Pathologists	12
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### Did not complete the required hours (or could not provide evidence of completion)

Hearing Aid Dispensers	7
Audiologists	2
Dispensing Audiologists	6
Speech-Language Pathologists	67
Speech-Language Pathology Assistants	15
<b>TOTAL</b>	<b>97</b>

On a case by case review, the licensees who failed the audit were informed that they failed and the reason why. Most licensees who exceeded the limit for self-study and the licensees who completed courses from non-approved providers received warning notices explaining how they are in violation of the Board's regulations regarding the CE requirement for renewal. Licensees who did not complete the required continuing education received notices explaining how many hours of CE they were deficient and were given the opportunity to make-up these hours within 30 days without a citation and fine.

### Licensees Who Corrected the Deficiency

As of 6/7/2018

Hearing Aid Dispensers	5
Audiologists	1
Dispensing Audiologists	6
Speech-Language Pathologists	61
Speech-Language Pathology Assistants	14
<b>TOTAL</b>	<b>87</b>

Licensees who failed to respond to the audit notices (initial audit notice and second audit notice) were issued a Notice of Probable Violation (NPV) or a Citation and Fine. A total of 28 NPVs were sent to licensees who failed to respond to the audit notices.

Licensees who were given the opportunity to correct the deficiency and failed to respond were issued a NPV or a Citation and Fine. A total of 17 NPVs were issued to licensees who were given the opportunity to correct the deficiency and failed to respond.

After receiving an NPV, if the deficiency matter is not resolved the Board issued the licensee a citation and fine.

## Citations Issued

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As of 6/8/2018

Hearing Aid Dispensers	3
Audiologists	0
Dispensing Audiologists	0
Speech-Language Pathologists	7
Speech-Language Pathology Assistants	4
<b>TOTAL</b>	<b>14</b>



## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action regarding RPE Direct Monitoring Requirements and Remote or Telesupervision</b>

### BACKGROUND

At its June 1, 2018 meeting, the Board discussed letters received from stakeholders and members of the SLP profession in support of remote/telesupervision for required professional experience (RPE) temporary license holders. The Board agreed that we needed to clarify monitoring requirements and develop clear definitions and requirements that for telesupervision of RPEs.

Board staff and legal counsel have prepared proposed language to address the concerns of the Board regarding RPE supervision requirements. The proposed language is included in your Board materials.

### ACTION REQUESTED

The Board should review the current RPE supervision requirements and the proposed language and be prepared to discuss changes and/or amendments to the text for the purpose of creating a rulemaking file to amend the Board's regulations.

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

**Title 16, Division 13.4  
Speech-Language Pathology and Audiology Regulations  
Article 4. Qualifications for Licensure - Required Professional  
Experience**

**Proposed Language**

**Amend Section 1399.153.3 of Article 6 of Division 13.4 of Title 16 as follows:**

1399.153.3. Responsibilities of RPE Supervisors.

An RPE supervisor's responsibilities shall include, but are not limited to:

(a) Legal responsibility for the health, safety and welfare of the patients treated by the RPE temporary license holder.

(b) Insuring that the extent, kind, and quality of functions performed by an RPE temporary license holder under the supervisor's supervision is in compliance with these regulations and is consistent with the RPE temporary license holder's education and training.

(c) Insuring that such supervision consists of direct ~~monitoring~~ supervision for a minimum of eight (8) hours per month for each full-time RPE temporary license holder and four (4) hours per month for each part-time RPE temporary license holder.

(1) Tele supervision of the RPE temporary license holder may be an appropriate form of direct supervision if it meets the following requirements:

(A) Tele supervision is limited to no more than four (4) hours per month for each full-time RPE temporary license holder, and limited to no more than two (2) hours per month for each part-time RPE temporary license holder.

(B) The RPE supervisor shall inform the client about the use of tele supervision and obtain verbal or written consent from the client for the use of the tele supervision. The consent shall be documented by the RPE supervisor.

(C) The same standard of care when providing tele supervision is exercised as when providing any other mode of supervision.

(D) The RPE supervisor has evaluated the functions to be performed by the RPE temporary license holder while tele supervision will occur and has determined that the

individual RPE temporary license holder is able to perform those functions without the need to be physically present.

(d) “~~Direct monitoring supervision~~” of the RPE temporary license holder may consist of the personal observation of the following:

- (1) evaluation and assessment procedures;
- (2) treatment procedures;
- (3) record keeping, evaluation or assessment reports, correspondence, plans for management, and summaries of case conferences;
- (4) participation in case conferences.

(5) At least 50% of the supervisor's ~~observation~~ direct supervision shall be of the RPE temporary license holder's evaluation, assessment and treatment procedures.

(e) Reviewing and evaluating the RPE temporary license holder's performance on a monthly basis for the purpose of improving his or her professional expertise. The RPE supervisor shall discuss the evaluations with the RPE temporary license holder and maintain written documentation of these evaluations and reviews. The written evaluations shall be signed by both the RPE supervisor and the RPE temporary license holder. If the supervisor determines the RPE temporary license holder is not minimally competent for licensure, the RPE temporary license holder shall be so notified orally and in writing. A written statement documenting the basis for the supervisor's determination shall be submitted with the final verification of experience to the Board.

(f) Reviewing and countersigning all evaluation and assessment reports, treatment plans, progress and discharge reports drafted by the RPE temporary license holder.

(g) A “Required professional experience supervisor” must have completed not less than six (6) hours of continuing professional development in supervision training prior to assuming responsibility as a RPE supervisor, and three (3) hours of continuing professional development in supervision training every four years thereafter. If the continuing professional development in supervision training is obtained from a Board-approved provider as defined in Section 2532.6 subdivision (e) of the Code, the hours may be applied towards the continuing professional development requirement for licensees set forth in Section 1399.160.3 of the California Code of Regulations.

Note: Authority cited: Sections 2531.95, 2532.2 and 2532.6, Business and Professions Code. Reference: Sections 2532.2 and 2532.6, Business and Professions Code.





## MEMORANDUM

<b>DATE</b>	August 1, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action Regarding Supervision of Hearing Aid Dispenser Trainee-Applicants, Supervision and Training Required, and Direct Supervision</b>

### BACKGROUND

At its October 26-27, 2017 meeting, the Board discussed concerns with the current HAD trainee and supervisor requirements. Concerns discussed included the need for clarity in the amount and types of supervision for specific tasks; supervisor requirements, and supervision types needing to be defined in regulation. The Board delegated to a subcommittee of Marcia Raggio and Amnon Shalev to work with staff and legal counsel to write draft regulatory language that further clarifies HAD trainee and supervisor requirements.

Under current laws and regulations, a hearing aid dispenser trainee-applicant is not required to complete a specified number of hours of training or be supervised a specified number of hours, prior to taking the written and practical examinations and applying for a HAD license.

The October discussion also included required training, even a more formal apprenticeship. The subcommittee proposed that HAD trainees be required to participate in an approved apprenticeship or training program. The program would consist of training in audiometric testing and hearing aid fitting.

### ACTION REQUESTED

Included in your materials are revisions to California Code of Regulations Sections (CCR) 1399.116, 1399.118, and 1399.119. Please review the draft language and be prepared to discuss any changes or revisions.

## **Hearing Aid Dispenser Trainee Supervision**

### **Supervisor Training**

- Supervisors should undergo, and provide evidence of, adequate training in all aspects of audiometric evaluations
  - ✓ Pure tone air and bone conduction audiometry
  - ✓ Speech Recognition Threshold
  - ✓ Most Comfortable Loudness
  - ✓ Word Recognition
  - ✓ Uncomfortable Loudness
  - ✓ Masking for pure tones and speech testing
  
- Supervisors should undergo, and provide evidence of, adequate training in all aspects of hearing aid selection and fitting
  - ✓ Choosing appropriate hearing aid styles relative to hearing loss, client dexterity, and cosmetic concerns
  - ✓ Choosing appropriate hearing aids per client's financial needs and communicative environments
  - ✓ Demonstrate knowledge of hearing aid fitting software
  - ✓ Demonstrate ability to use real ear equipment to verify fitting
  - ✓ Demonstrate knowledge of electroacoustic analysis equipment and essential ANSI standards
  - ✓ Demonstrate knowledge of hearing aid troubleshooting

### **Supervision of Trainees:**

#### **Activities requiring 100% immediate\* supervision**

- ✓ Otoscopic inspection of the ear
- ✓ Ear impressions for hearing aids or earmolds
- ✓ Audiometric evaluations

#### **Activities requiring direct\*\* supervision once competency has been achieved**

- ✓ Hearing aid programming
- ✓

\*Immediate supervision – physically present during services provided to the client

\*\*Direct supervision - on-site observation and guidance

### **Direct Supervision: Amend 1399.119**

- ✓ Amend the definition of direct supervision to 100% immediate supervision for activities noted above
- ✓ The supervisor should provide direct supervision during the first three months of the trainee's experience thus providing training eight hours per day
- ✓ The supervisor should be in the same location as the trainee at all times during the trainee's temporary license period

### **Trainee Education**

- ✓ Require that trainees participate in a board-approved apprenticeship program that provides specific education in audiometric testing and hearing aid fitting. Trainees must achieve a passing score or grade on all aspects of the apprenticeship course(s).

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

**Title 16, Chapter 13.3  
Hearing Aid Dispensers Regulations  
Article 3. Temporary Licenses**

**Proposed Language**

**Amend Sections 1399.116, 1388.118, and 1399.119 of Article 6 of  
Division 13.3 of Title 16 as follows:**

1399.116. Supervision of Trainees-Applicants.

(a) A licensed hearing aid dispenser shall not supervise more than one trainee-applicant at any one time unless a specific waiver has been granted by the Board. Criteria for such a waiver shall be:

(1) the supervising dispenser shall have possessed a valid license as a hearing aid dispenser and engaged in the practice of fitting and selling hearing aids for at least three (3) years;

(2) the supervising dispenser has not been the subject of successful disciplinary action or of a complaint which has been investigated and verified by internal investigation report or the department's Division of Investigation within the preceding three (3) years; and

(3) the supervising dispenser shall not have been found to be in violation of any of the regulations contained in this article within the preceding three (3) years.

(b) A licensed hearing aid dispenser shall not in any circumstance supervise more than three (3) trainee-applicants at any one time.

(c) The supervising dispenser shall complete a minimum of four (4) hours of continuing professional development in supervision training in the two-year period prior to the commencement of supervision, and complete two (2) hours of continuing professional development in supervision every year thereafter.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 2531.4 and 2538.28, Business and Professions Code.

1399.118. ~~Supervision and~~ Training Required.

The supervision and training of a trainee<sub>1</sub>-applicant under Section 2538.28 of the Code<sub>1</sub>, engaged in the fitting or selling of hearing aids shall include the following:

(a) Intervention into the fitting and selling process by the supervisor.

(b) Inspection of the fitting and selling process by the supervisor.

(c) Training consisting of at least the following:

~~(1) Review and counter signing of the results of each fitting and sale of a hearing aid;~~

- ~~(2) Reevaluation of the fitting and selling techniques of the trainee-applicant at least weekly;~~
- ~~(3) Being readily available to the trainee-applicant to render advice and give instruction and assistance in the fitting and selling of hearing aids;~~
- ~~(1) Pure tone air and bone conduction audiometry;~~
- ~~(2) Speech Recognition Threshold;~~
- ~~(3) Most Comfortable Loudness;~~
- ~~(4) Word Recognition;~~
- ~~(5) Uncomfortable Loudness;~~
- ~~(6) Masking for pure tones and speech testing;~~
- ~~(7) electroacoustic analysis equipment and essential ANSI standards;~~
- ~~(8) Choosing appropriate hearing aid styles relative to hearing loss, client dexterity, and cosmetic concerns;~~
- ~~(9) hearing aid fitting software;~~
- ~~(10) using real ear equipment to verify fitting; and~~
- ~~(11) hearing aid troubleshooting~~
- (d) Instruction in the procedures for the fitting and selling of hearing aids required by Chapter 5.3 7.5, Division 2 of the Code.
- (e) Training with instruments and equipment generally considered to produce valid hearing measurements necessary to the fitting and selling of hearing aids.
- (f) A statement that the supervisor has agreed to accept the responsibility for the supervision and training of the applicant as required by Section 2538.28 of the Code.
- ~~(g) The supervisor shall be responsible for providing supervision until whichever of the following first occurs:~~
  - ~~(1) The trainee-applicant obtains a permanent license.~~
  - ~~(2) The supervisor or trainee-applicant gives written notification to the Board that he or she is terminating supervision and training.~~

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Section 2538.28, Business and Professions Code.

### 1399.119. ~~Direct~~ Supervision

A trainee-applicant under Section 2538.28 of the Code shall fit or sell hearing aids only under the ~~direct~~ supervision of the supervising licensed hearing aid dispenser. Supervision shall be provided for the duration of the trainee-applicant's temporary license. "Direct sSupervision" shall mean either direct supervision or immediate supervision. Supervision shall not include supervision by telephonic or electronic means. as used in this section means all of the following:

- (a) "Direct supervision" means on-site observation and guidance by the supervising dispenser during services provided to the client by the trainee-applicant.
- (b) "Immediate supervision" means the supervising dispenser is physically present during services provided to the client by the trainee-applicant.

(c) For purposes of Section 2538.30(a), "manage" means to be in charge of, oversee, or administer the day-to-day operations of a business which engages in the fitting or sale of hearing aids.

(d) The supervising dispenser shall provide direct supervision any time the trainee-applicant is providing one of these services: otoscopic inspection of the ear, ear impressions for hearing aids or ear molds, hearing aid programming, and audiometric evaluations.

(ae) The supervising dispenser is shall provide direct supervision present within the same work setting a minimum of 20 100 percent of the time in which the trainee-applicant is providing services during the first ninety (90) calendar days of the trainee-applicant's services of fitting or selling hearing aids.

(b f) After the initial ninety(90) calendar days, with the exception of those services provided in subsection (d), the supervising dispenser shall provide immediate supervision to the trainee at all times. approve the selection of hearing aid by a trainee-applicant.

(eg) The supervising dispenser shall countersign the audiogram and all sales documents prepared and consummated by a trainee-applicant.

(dh) If a trainee-applicant fails the license examination, the supervising dispenser is required to be physically present at all fittings and sales made by the trainee-applicant regardless of whether these occur in or outside the supervising dispenser's business location.

(i) The supervisor shall be responsible for providing supervision until whichever of the following first occurs:

(1) The trainee-applicant obtains a permanent license.

(2) The supervisor or trainee-applicant gives written notification to the Board that he or she is terminating supervision and training.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Section 2538.28, and 2538.30, Business and Professions Code.

AMENDED IN SENATE JULY 3, 2018

AMENDED IN SENATE JUNE 18, 2018

AMENDED IN ASSEMBLY JANUARY 10, 2018

AMENDED IN ASSEMBLY JANUARY 3, 2018

AMENDED IN ASSEMBLY MARCH 23, 2017

CALIFORNIA LEGISLATURE—2017-18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 11**

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**Introduced by Assembly Members McCarty and Bonta  
(Coauthors: Assembly Members Carrillo, Kamlager-Dove,  
Nazarian, and Mark Stone)**

December 5, 2016

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*An act to add Section 14132.195 to, and to add and repeal Section 14197.07 of, the Welfare and Institutions Code, relating to Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 11, as amended, McCarty. Early and Periodic Screening, Diagnosis, and Treatment Program: screening services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for any individual under 21 years of age who is covered under Medi-Cal consistent with the requirements under federal law. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

Existing federal law provides that EPSDT services include periodic screening services, vision services, dental services, hearing services, and other necessary services to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not the services are covered under the state plan.

This bill would require, consistent with federal law, that screening services under the EPSDT program include developmental screening services for individuals zero to 3 years of age, ~~inclusive, and be in compliance with the periodicity schedule and the standardized and validated developmental screening tools that are established by the Bright Futures/American Academy of Pediatrics Recommendations for Preventive Pediatric Health Care and by any future updates to those recommendations. The bill would require that screening tools be administered in their entirety and in adherence to the specific tools' recommended guidelines.~~ *inclusive. Until July 1, 2023, the bill would require an external quality review organization entity to annually review, survey, and report on managed care plan reporting and compliance with specified developmental screening tools and schedules.* The bill would also make legislative findings and declarations relating to child development.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Not all children experience a clear path toward healthy
- 4 development, making the early identification of developmental
- 5 concerns and the timely connection to appropriate intervention
- 6 essential to a child's well-being.
- 7 (b) Despite the prevalence of developmental delays and
- 8 disorders, the overall rate of developmental screening remains low
- 9 and the use of validated screening tools is often inconsistent.
- 10 (c) Many children at risk for developmental delays or disabilities
- 11 due to environmental or biological factors are not identified in a
- 12 timely fashion, greatly reducing the effectiveness of applied
- 13 intervention.
- 14 (d) The Bright Futures Guidelines by the American Academy
- 15 of Pediatrics provide evidence-driven guidance for all preventive



1 care screenings and well-child visits, recommending that  
2 developmental surveillance include the periodic administration of  
3 a standardized developmental screening test.

4 (e) Early access to appropriate intervention for children with  
5 developmental delays and disabilities is critically important for  
6 healthy and optimal development.

7 SEC. 2. Section 14132.195 is added to the Welfare and  
8 Institutions Code, immediately following Section 14132.19, to  
9 read:

10 14132.195. Consistent with federal law, screening services  
11 provided under the Early and Periodic Screening, Diagnosis, and  
12 Treatment (EPSDT) benefit pursuant to subdivision (v) of Section  
13 14132 shall include developmental screening services for  
14 individuals zero to three years of age, inclusive. ~~These~~  
15 ~~developmental screening services shall be in compliance with the~~  
16 ~~periodicity schedule and the standardized and validated~~  
17 ~~developmental screening tools that are established by the Bright~~  
18 ~~Futures/American Academy of Pediatrics Recommendations for~~  
19 ~~Preventive Pediatric Health Care and by any future updates to~~  
20 ~~those recommendations. Developmental screening tools shall be~~  
21 ~~administered in their entirety and in adherence to the specific tools<sup>2</sup>~~  
22 ~~recommended guidelines.~~

23 SEC. 3. Section 14197.07 is added to the Welfare and  
24 Institutions Code, to read:

25 14197.07. (a) *As part of the federally required external quality*  
26 *review organization (EQRO) review of Medi-Cal managed care*  
27 *plans in the annual detailed technical report required by Section*  
28 *438.364 of Title 42 of the Code of Federal Regulations, effective*  
29 *for contract periods commencing on or after July 1, 2018, the*  
30 *EQRO entity shall annually review, survey, and report on managed*  
31 *care plan reporting and compliance with the use of the validated*  
32 *developmental screening tools and periodicity schedule*  
33 *recommended by the American Academy of Pediatrics for children*  
34 *zero to three years of age, inclusive.*

35 (b) *This section shall remain in effect only until July 1, 2023,*  
36 *and as of that date is repealed.*

O

AMENDED IN ASSEMBLY JANUARY 3, 2018

AMENDED IN ASSEMBLY APRIL 4, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1659**

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**Introduced by Assembly Member Low**

February 17, 2017

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~~An act to add Sections 43020.2 and 43020.3 to, and to add Chapter 6 (commencing with Section 42370) to Part 3 of Division 30 of, the Public Resources Code, relating to recycling. An act to amend Sections 701, 702, and 703 of the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1659, as amended, Low. ~~Food Service Plastic Packaging Recovery and Recycling Stewardship Act.~~ *Healing arts boards: inactive licenses.*

*Existing law establishes healing arts boards in the Department of Consumer Affairs to ensure private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law requires each healing arts board to issue inactive licenses to holders of active licenses whose license is not punitively restricted by that board. Existing law prohibits the holder of an inactive license from engaging in any activity for which an active license is required. Existing law requires the renewal fee for an active license to apply to an inactive license.*

*This bill would prohibit the holder of an inactive license from representing that he or she has an active license. The bill would also*

*authorize a healing arts board to establish a lower inactive license renewal fee.*

~~(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.~~

~~Existing law requires a manufacturer of carpets sold in the state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the Department of Resources Recycling and Recovery for approval that would, among other things, increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary products. Existing law requires the carpet stewardship plan to include a funding mechanism that provides sufficient funding to carry out the plan and requires a manufacturer or carpet stewardship organization to pay the department an annual administrative fee. Existing law requires the department to identify the direct development or regulatory costs incurred by the department prior to the submittal of the carpet stewardship plans, and to establish a fee in an amount adequate to cover these costs, that is paid by a carpet stewardship organization. Existing law imposes administrative civil penalties on a person who violates these provisions.~~

~~This bill, the Food Service Plastic Packaging Recovery and Recycling Stewardship Act, would authorize a city, county, or city and county to establish and implement a residential curbside collection program for the collection and recycling of a particular type of plastic packaging, defined to mean a container or single-use food service packaging product labeled with the same resin code. The bill would require a residential curbside collection program to impose certain requirements on the transportation of plastic packaging collected as a part of the program and on material recovery facilities to which waste that includes that plastic packaging is delivered.~~

~~The bill would require, by June 30, 2018, a manufacturer of plastic packaging sold in this state, individually or through a plastic packaging stewardship organization, to submit to the department one or more plastic packaging stewardship plans, similar to the carpet stewardship plans described above, collectively covering each particular type of plastic packaging distributed, sold, or used in the state by that manufacturer. The bill would require the plan to include a funding mechanism similar to that required in the carpet stewardship law. The bill would require the manufacturer or organization to, among other~~

~~things, establish a plastic packaging stewardship fee that would be imposed on members of the organization and to determine the appropriate projects and programs to be funded by the stewardship fee that would further the efforts to recycle the particular type of plastic packaging. The bill would require each plastic packaging stewardship organization to make reasonable efforts to achieve specified rate of community access to residential curbside collection programs for each type of plastic packaging covered by the organization's plan, with an overall goal of a 75% rate of community access for each type of plastic packaging on or before January 1, 2043.~~

~~Similar to the carpet stewardship organization, a manufacturer or plastic packaging stewardship organization would be required to pay the department an annual administrative fee, as determined by the department. The bill would require the department to identify the direct development or regulatory costs incurred by the department prior to the submittal of plastic packaging stewardship plans and to establish a fee in an amount adequate in aggregate to cover those costs, to be paid by each plastic packaging stewardship organization that submits a plastic packaging stewardship plan. The bill would provide for the imposition of administrative civil penalties upon a person who violates the bill. The bill would establish the Plastic Packaging Stewardship Account in the Integrated Waste Management Fund and would require the fees collected by the department to be deposited in that account, for expenditure by the department, upon appropriation by the Legislature, to cover the department's cost to implement the bill's provisions. The bill would also establish the Plastic Packaging Stewardship Penalty Subaccount in the Integrated Waste Management Fund and would require that the civil penalties collected by the department pursuant to the bill's provisions be deposited in that subaccount, for expenditure by the department, upon appropriation by the Legislature, to cover the department's costs to implement the bill's provisions.~~

~~(2) Existing law requires the department to adopt regulations relating to waste management, including standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities, and for solid waste handling, transfer, composting, transformation, and disposal.~~

~~This bill would authorize a material recovery facility to send residual materials containing plastic packaging to a secondary sorting facility with the capacity of sorting or separating plastic packaging material from the residual material for recycling. The bill would encourage a solid waste landfill that receives solid waste that contains plastic~~

packaging to send the plastic packaging to a material recovery facility, secondary sorting facility, or to a recycling facility that has the capability to sort, separate, or recycle plastic packaging material.

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

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

1     SECTION 1. Section 701 of the Business and Professions Code  
2     is amended to read:

3     ~~701. Each healing arts board referred to in this division shall~~  
4     ~~issue, upon application and payment of the normal renewal fee,~~  
5     ~~an inactive license or certificate to a current holder of an active~~  
6     ~~license or certificate whose license or certificate is not suspended,~~  
7     ~~revoked, or otherwise punitively restricted by that board.~~

8     701. (a) As used in this article, “board” refers to any healing  
9     arts board, division, or examining committee which licenses or  
10    certifies health professionals.

11    (b) *Each healing arts board referred to in this division shall*  
12    *issue, upon application and payment of the normal renewal fee,*  
13    *an inactive license or certificate to a current holder of an active*  
14    *license or certificate whose license or certificate is not suspended,*  
15    *revoked, or otherwise punitively restricted by that board.*

16    SEC. 2. Section 702 of the Business and Professions Code is  
17    amended to read:

18    702. The holder of an inactive healing arts license or certificate  
19    issued pursuant to this article shall not ~~engage~~ *do any of the*  
20    *following:*

21    (a) *Engage* in any activity for which an active license or  
22    certificate is required.

23    (b) *Represent that he or she has an active license.*

24    SEC. 3. Section 703 of the Business and Professions Code is  
25    amended to read:

26    703. (a) An inactive healing arts license or certificate issued  
27    pursuant to this article shall be renewed during the same time  
28    period at which an active license or certificate is renewed. In order  
29    to renew a license or certificate issued pursuant to this article, the  
30    holder thereof need not comply with any continuing education  
31    requirement for renewal of an active license or certificate.

32    The

1 (b) *The renewal fee for a license or certificate in an active status*  
2 *shall apply also for renewal of a license or certificate in an inactive*  
3 *status: status, unless a lower fee has been established by the issuing*  
4 *board.*

5 ~~SECTION 1. This act shall be known, and may be cited, as the~~  
6 ~~Food Service Plastic Packaging Recovery and Recycling~~  
7 ~~Stewardship Act.~~

8 ~~SEC. 2. Chapter 6 (commencing with Section 42370) is added~~  
9 ~~to Part 3 of Division 30 of the Public Resources Code, to read:~~

10  
11 ~~CHAPTER 6. FOOD SERVICE PLASTIC PACKAGING STEWARDSHIP~~  
12 ~~PROGRAM~~

13  
14 ~~Article 1. General Provisions~~

15  
16 ~~42370. The Legislature finds and declares the following:~~

17 ~~(a) It is the intent of the Legislature, in adopting this chapter,~~  
18 ~~to reduce the amount of food service packaging that is littered and~~  
19 ~~improperly disposed of, to reduce the amount of food service~~  
20 ~~plastic packaging that is disposed of in landfills, to increase~~  
21 ~~opportunities for businesses or multifamily complexes to save~~  
22 ~~money, to create jobs in California by providing materials for~~  
23 ~~recycling manufacturing facilities, to reduce greenhouse gas~~  
24 ~~emissions, to keep valuable materials out of landfills, and to create~~  
25 ~~a healthy environment for the community and future generations~~  
26 ~~by recovering natural resources by increasing the recycling rate~~  
27 ~~of food service plastic packaging.~~

28 ~~(b) California is home to a number of food service packaging~~  
29 ~~manufacturers that produce a variety of products. These facilities~~  
30 ~~employ thousands of Californians and are important components~~  
31 ~~of the state's economy.~~

32 ~~(c) All food service packaging, regardless of the material from~~  
33 ~~which it is made, has environmental impacts, including, but not~~  
34 ~~limited to, raw material acquisition, energy use, greenhouse gas~~  
35 ~~emissions and other emissions associated with its manufacture,~~  
36 ~~transportation, and disposal, consumption of increasingly scarce~~  
37 ~~landfill capacity, and unsightly and environmentally damaging~~  
38 ~~consequences of littering and other improper disposal.~~

39 ~~(d) Manufacturers, distributors, and users of food service~~  
40 ~~packaging have a shared responsibility to identify, finance, and~~

1 implement food service packaging materials life-cycle management  
2 solutions that are both environmentally responsible and  
3 economically sustainable. These solutions include, but are not  
4 limited to, reduction of food service packaging, reuse of food  
5 service packaging materials, enhanced material collection, sorting  
6 and recycling programs, antilitter, pollution prevention, and other  
7 public education programs, and developing and supporting  
8 emerging material recycling and conversion technologies to  
9 facilitate greater reuse and recycling of food service packaging  
10 materials.

11 (e) ~~Manufacturers of each type of food service packaging~~  
12 ~~material, transporters, solid waste haulers, recyclers, the State of~~  
13 ~~California, local governments, and other stakeholders should work~~  
14 ~~together to develop and implement programs to ensure all food~~  
15 ~~service packaging materials are managed in an environmentally~~  
16 ~~sound and economically sustainable manner.~~

17 (f) ~~With the enactment of this chapter, the Legislature intends~~  
18 ~~to encourage the development of recycling technologies for food~~  
19 ~~service plastic packaging materials without favoring one type of~~  
20 ~~food service packaging material, whether plastic or otherwise, over~~  
21 ~~another. It is anticipated that the methods and programs that will~~  
22 ~~be developed pursuant to this chapter will serve as models for~~  
23 ~~similar programs addressing other types of food service packaging~~  
24 ~~materials.~~

25 42370.1. ~~The purpose of this chapter is to increase the amount~~  
26 ~~of food service plastic packaging waste that is diverted from~~  
27 ~~landfills and recycled into new products or otherwise managed in~~  
28 ~~a manner that is consistent with the state's hierarchy for waste~~  
29 ~~management practices pursuant to Section 40051.~~

30 42370.2. (a) ~~For purposes of this chapter, and unless the~~  
31 ~~context otherwise requires, the following definitions shall apply:~~

32 (1) ~~“Community recycling access rate,” for a particular type of~~  
33 ~~plastic packaging, means the number of residents that have access~~  
34 ~~to a residential curbside collection program that accepts that type~~  
35 ~~of plastic packaging for recycling divided by the total number of~~  
36 ~~residents in the State of California.~~

37 (2) ~~“Department” means the Department of Resources Recycling~~  
38 ~~and Recovery.~~

39 (3) ~~“Manufacturer” means either of the following:~~

1 (A) The person or entity in the state that manufactures plastic  
2 packaging that is sold, offered for sale, or distributed for use in  
3 the state.

4 (B) If there is no person or entity that is a manufacturer of plastic  
5 packaging for purposes of subparagraph (A), the person or entity  
6 that imports the plastic packaging into the state for sale,  
7 distribution, or use in the state.

8 (4) “Material recovery facility” means a facility that sorts  
9 residential solid waste that includes recyclable materials for the  
10 purpose of separating recyclable materials from materials destined  
11 for disposal at a landfill.

12 (5) “Particular type of plastic packaging” or “type of plastic  
13 packaging” means all plastic packaging labeled with the same resin  
14 code pursuant to Section 18015.

15 (6) “Plastic packaging” means a container or other single-use  
16 food service packaging product labeled with a resin code pursuant  
17 to Section 18015 that is used by a food service provider to carry  
18 or contain food or beverages that are prepared onsite so that a  
19 customer may consume the food offsite if the customer wishes to  
20 do so.

21 (7) “Plastic packaging stewardship organization” or  
22 “organization” means either of the following:

23 (A) An organization appointed by one or more manufacturers  
24 of a particular type of plastic packaging to act as an agent on behalf  
25 of the manufacturer to design, submit, and administer a plastic  
26 packaging stewardship plan pursuant to this chapter.

27 (B) A plastic packaging manufacturer that complies with this  
28 chapter as an individual manufacturer.

29 (8) “Recycle” means to take a product or material that has been  
30 used and discarded and divert it from disposal in a landfill for the  
31 purpose of being transformed, regenerated, or reused in the  
32 production of a useful product.

33 (b) A term not specifically defined in this chapter shall be  
34 interpreted consistent with its meaning in this division.

35  
36 Article 2. Food Service Plastic Packaging Stewardship  
37 Organization  
38

39 42371. On or before June 30, 2018, a manufacturer of plastic  
40 packaging distributed, sold, or used in this state shall, individually



1 or through a plastic packaging stewardship organization formed  
2 pursuant to Section 42371.2, submit to the department one or more  
3 plastic packaging stewardship plans, collectively covering each  
4 particular type of plastic packaging distributed, sold, or used in  
5 this state by that manufacturer, that will do all of the following:

6 (a) Achieve the purposes of this chapter, as described in Section  
7 42370.1, and meet the requirements of Section 42372.4.

8 (b) Establish goals that, to the extent feasible based on available  
9 technology and information, increase the recycling of plastic  
10 packaging, increase the diversion of plastic packaging from  
11 landfills, increase the recyclability of plastic packaging, and  
12 provide incentives for the market growth of secondary products  
13 made from recycled plastic packaging:

14 (c) Describe proposed measures that will be implemented by  
15 the organization that reduce the disposal of plastic packaging  
16 manufactured by the organization's members in a manner  
17 consistent with the state's solid waste management hierarchy,  
18 including, but not limited to, source reduction, source separation  
19 and processing to segregate and recover recyclable materials, and  
20 environmentally sound management of materials that cannot  
21 feasibly be recycled.

22 (d) Include a funding mechanism consistent with subdivision  
23 (b) of Section 42371.2.

24 (e) Include a process by which the financial activities of the  
25 plastic packaging stewardship organization that are related to  
26 implementation of the plastic packaging stewardship plan will be  
27 subject to an independent audit.

28 42371.2. Manufacturers of one or more than one particular  
29 type of plastic packaging may form an organization known as a  
30 plastic packaging stewardship organization. A plastic packaging  
31 stewardship organization may address a stewardship plan to more  
32 than one type of plastic packaging only if all of the manufacturers  
33 of that organization manufacture all of the types of plastic  
34 packaging to be covered by the plan. A plastic packaging  
35 stewardship organization shall do all of the following:

36 (a) Prepare a plastic packaging stewardship plan that meets the  
37 requirements of Section 42371.

38 (b) Establish a funding mechanism, consistent with Article 4  
39 (commencing with Section 42374), that provides sufficient funding  
40 to carry out the plastic packaging stewardship plan, including the

1 administrative, operational, and capital costs of the plan, payment  
2 of fees pursuant to Section 42374.6, and incentive payments that  
3 will advance the purposes of this chapter:

4 (c) ~~Set the plastic packaging stewardship fee in accordance~~  
5 ~~with Article 4 (commencing with Section 42374):~~

6 (d) ~~Determine the projects and programs to be funded by the~~  
7 ~~plastic packaging stewardship fee collected pursuant to Section~~  
8 ~~42374.4:~~

9  
10 Article 3. Food Service Plastic Packaging Recycling Program

11  
12 42372. (a) ~~A city, county, or city and county may establish~~  
13 ~~and implement a residential curbside collection program pursuant~~  
14 ~~to this article for the collection and recycling of a particular type~~  
15 ~~of plastic packaging. If a city, county, or city and county establishes~~  
16 ~~and implements a residential curbside collection program, the city,~~  
17 ~~county, or city and county shall notify the department for purposes~~  
18 ~~of tracking community access rates to residential curbside~~  
19 ~~collection programs for each particular type of plastic packaging.~~

20 (b) ~~To help ensure statewide consistency, the department may~~  
21 ~~collaborate with any city, county, or city and county on the~~  
22 ~~establishment and implementation of a residential curbside~~  
23 ~~collection program for a particular type of plastic packaging, and~~  
24 ~~may develop a list that identifies by resin code the particular types~~  
25 ~~of plastic packaging materials accepted for recycling by each~~  
26 ~~program.~~

27 42372.2. (a) ~~A residential curbside collection program~~  
28 ~~established pursuant to this article shall include the following~~  
29 ~~requirements:~~

30 (1) ~~Postconsumer untreated plastic packaging that is collected~~  
31 ~~as part of a residential curbside collection program for a particular~~  
32 ~~type of plastic packaging shall be transported only to a facility~~  
33 ~~where it is feasible to recycle that type of plastic packaging or to~~  
34 ~~a material recovery facility for the purpose of sorting that particular~~  
35 ~~type of plastic packaging before recycling.~~

36 (2) ~~A material recovery facility that receives material from a~~  
37 ~~residential curbside collection program for a particular type of~~  
38 ~~plastic packaging that is unable to separate at least 75 percent of~~  
39 ~~that particular type of plastic packaging from the mixture of solid~~  
40 ~~waste and recyclable materials collected in the residential curbside~~

1 collection program shall send its residual material to a secondary  
2 sorting facility if the secondary sorting facility is reasonably  
3 available and willing to accept the residual material.

4 (b) For purposes of this section, the following definitions apply:

5 (1) “Reasonably available” means available at a cost, including  
6 the cost of transporting the residual material and any fee charged  
7 by the secondary sorting facility receiving the material, that does  
8 not exceed the cost of transporting the residual material to a landfill  
9 and disposing of the material at that landfill.

10 (2) “Residual material” means any material collected through  
11 a residential curbside collection program by, or material delivered  
12 through a drop-off program to, a material recovery facility that  
13 remains after processing by the material recovery facility.  
14 “Processing” means the removal of recyclable material from other  
15 material to the extent a material recovery facility is equipped to  
16 do so.

17 (3) “Secondary sorting facility” means a facility equipped to  
18 sort a particular type of plastic packaging from other recyclable  
19 material and solid waste in residual material.

20 (c) The department shall adopt regulations establishing a  
21 mechanism by which the department will resolve disputes regarding  
22 whether a secondary sorting facility is reasonably available and  
23 under what circumstances the department may direct a residential  
24 curbside collection program, a recycling facility, or a solid waste  
25 facility to transfer residual material containing plastic packaging  
26 to a secondary sorting facility in order to further the purposes of  
27 this act.

28 42372.4. (a) On and before January 1, 2023, each plastic  
29 packaging stewardship organization shall make reasonable efforts  
30 to achieve a 15-percent rate of community access to residential  
31 curbside collection programs for each type of plastic packaging  
32 covered by the organization.

33 (b) On and before January 1, 2028, each plastic packaging  
34 stewardship organization shall make reasonable efforts to achieve  
35 a 30-percent rate of community access to residential curbside  
36 collection programs for each type of plastic packaging covered by  
37 the organization.

38 (c) On and before January 1, 2033, each plastic packaging  
39 stewardship organization shall make reasonable efforts to achieve  
40 a 45-percent rate of community access to residential curbside

1 collection programs for each type of plastic packaging covered by  
2 the organization.

3 ~~(d) On and before January 1, 2038, each plastic packaging~~  
4 ~~stewardship organization shall make reasonable efforts to achieve~~  
5 ~~a 60-percent rate of community access to residential curbside~~  
6 ~~collection programs for each type of plastic packaging covered by~~  
7 ~~the organization.~~

8 ~~(e) On and before January 1, 2043, each plastic packaging~~  
9 ~~stewardship organization shall make reasonable efforts to achieve~~  
10 ~~a 75-percent rate of community access to residential curbside~~  
11 ~~collection programs for each type of plastic packaging covered by~~  
12 ~~the organization.~~

13  
14 **Article 4. Plastic Packaging Stewardship Fees and**  
15 **Administrative Fees**  
16

17 ~~42374. Each plastic packaging stewardship organization shall~~  
18 ~~establish a plastic packaging stewardship fee for each particular~~  
19 ~~type of plastic packaging covered by the organization, to be paid~~  
20 ~~by members of the organization based on the amount of that~~  
21 ~~particular type of plastic packaging of each member that is covered.~~  
22 ~~The plastic packaging stewardship fee shall be calculated on a per~~  
23 ~~pound basis by type of plastic packaging as follows:~~

24 ~~(a) For each type of plastic packaging, if manufactured in the~~  
25 ~~state, the organization member shall pay the applicable amount~~  
26 ~~for its plastic packaging to be sold or used in the state.~~

27 ~~(b) For each type plastic packaging, if manufactured out of state,~~  
28 ~~the organization member shall pay the applicable amount for plastic~~  
29 ~~packaging introduced into the state by the organization member.~~

30 ~~42374.2. Each plastic packaging stewardship organization shall~~  
31 ~~determine the rules and procedures that are necessary and proper~~  
32 ~~to implement the collection of the charge in a fair, efficient, and~~  
33 ~~lawful manner.~~

34 ~~42374.4. The plastic packaging stewardship fee for each~~  
35 ~~particular type of plastic packaging shall be collected by a plastic~~  
36 ~~packaging stewardship organization and deposited in accounts,~~  
37 ~~segregated by the type of plastic packaging, that are maintained~~  
38 ~~and disbursed by the organization. Moneys collected pursuant to~~  
39 ~~this article shall be used by a plastic packaging stewardship~~  
40 ~~organization only for purposes of carrying out its duties under this~~

1 chapter and for appropriate projects and programs that would  
2 further the efforts to recycle the particular type of plastic packaging  
3 for which the moneys were collected, pursuant to the plastic  
4 packaging stewardship plan. Those projects or programs may  
5 include, but are not limited to, investments in infrastructure that  
6 promote the recycling of the particular type of plastic packaging  
7 for which the moneys were collected, pursuant to the plastic  
8 packaging stewardship plan.

9 42374.6. (a) A plastic packaging stewardship organization  
10 submitting a plastic packaging stewardship plan shall pay the  
11 department a quarterly administrative fee. The department shall  
12 set the fee at an amount that, when paid by every plastic packaging  
13 stewardship organization that submits a plastic packaging  
14 stewardship plan, is adequate to cover the department's full costs  
15 of administering and enforcing this chapter, including any program  
16 development costs or regulatory costs incurred by the department  
17 prior to plastic packaging stewardship plans being submitted. The  
18 department may establish a variable fee based on relevant factors,  
19 including, but not limited to, the portion of a particular type of  
20 plastic packaging sold in the state by members of the organization  
21 compared to the total amount of the same type of plastic packaging  
22 sold in the state by all organizations submitting a plastic packaging  
23 stewardship plan.

24 (b) The total amount of fees collected annually pursuant to this  
25 section shall not exceed the amount necessary to recover costs  
26 incurred by the department in connection with the administration  
27 and enforcement of the requirements of this chapter.

28 (c) The department shall identify the direct development or  
29 regulatory costs it incurs pursuant to this chapter prior to the  
30 submittal of a plastic packaging stewardship plan and shall  
31 establish a fee in an amount adequate to cover those costs, which  
32 shall be paid by a plastic packaging stewardship organization that  
33 submits a plastic packaging stewardship plan. The fee established  
34 pursuant to this subdivision shall be paid pursuant to the schedule  
35 specified in subdivision (d).

36 (d) A plastic packaging stewardship organization subject to this  
37 section shall pay a quarterly fee to the department to cover the  
38 administrative and enforcement costs of the requirements of this  
39 chapter pursuant to subdivision (a) on or before July 1, 2019, and  
40 every three months thereafter. The plastic packaging stewardship

1 organization shall pay the applicable portion of the fee pursuant  
2 to subdivision (c) on July 1, 2019, and every three months  
3 thereafter through July 1, 2043. After the initial year of payment,  
4 the total amount of the administrative fees paid for a calendar year  
5 shall not exceed 5 percent of the total amount of stewardship fees  
6 collected for the preceding calendar year.

7 (e) The department shall deposit the fees collected pursuant to  
8 this section into the Plastic Packaging Stewardship Account created  
9 pursuant to Section 42377.

10  
11 **Article 5. Member Reporting**

12  
13 ~~42375. (a) Each plastic packaging stewardship organization~~  
14 ~~shall submit annual reports on their efforts to recycle plastic~~  
15 ~~packaging to the department. A plastic packaging stewardship~~  
16 ~~organization submitting an annual report on behalf of its members~~  
17 ~~shall identify the individual members of the organization but is~~  
18 ~~not required to distinguish the individual recycling efforts of its~~  
19 ~~members.~~

20 ~~(b) A member of a plastic packaging stewardship organization~~  
21 ~~shall be considered in compliance with this section with regards~~  
22 ~~to the types of plastic packaging covered by the organization if~~  
23 ~~the plastic packaging stewardship organization of which it is a~~  
24 ~~member submits a report.~~

25  
26 **Article 6. Enforcement**

27  
28 ~~42376. (a) A civil penalty up to one thousand dollars (\$1,000)~~  
29 ~~per day may be administratively imposed by the department on~~  
30 ~~any person who is in violation of any provision of this chapter, or~~  
31 ~~up to ten thousand dollars (\$10,000) per day if the violation is~~  
32 ~~intentional, knowing, or negligent.~~

33 ~~(b) In assessing or reviewing the amount of a civil penalty~~  
34 ~~imposed pursuant to subdivision (a) for a violation of this chapter,~~  
35 ~~the department or the court shall consider all of the following:~~

- 36 ~~(1) The nature and extent of the violation.~~  
37 ~~(2) The number and severity of the violation or violations.~~  
38 ~~(3) The economic effect of the penalty on the violator.~~

- 1 ~~(4) Whether the violator took good faith measures to comply~~
- 2 ~~with this chapter and the period of time over which these measures~~
- 3 ~~were taken.~~
- 4 ~~(5) The willfulness of the violator’s misconduct.~~
- 5 ~~(6) The deterrent effect that the imposition of the penalty would~~
- 6 ~~have on both the violator and the regulated community.~~
- 7 ~~(7) Any other factor that justice may require.~~

8  
9 ~~Article 7. Financial Provisions~~

- 10
- 11 ~~42377. (a) The Plastic Packaging Stewardship Account and~~
- 12 ~~the Plastic Packaging Stewardship Penalty Subaccount are hereby~~
- 13 ~~established in the Integrated Waste Management Fund.~~
- 14 ~~(b) All fees collected by the department pursuant to this article~~
- 15 ~~shall be deposited in the Plastic Packaging Stewardship Account~~
- 16 ~~and may be expended by the department, upon appropriation by~~
- 17 ~~the Legislature, to cover the department’s costs to implement this~~
- 18 ~~chapter.~~
- 19 ~~(c) All civil penalties collected pursuant to this article shall be~~
- 20 ~~deposited in the Plastic Packaging Stewardship Penalty Subaccount~~
- 21 ~~and may be expended by the department, upon appropriation by~~
- 22 ~~the Legislature, to cover the department’s costs to implement this~~
- 23 ~~chapter.~~

24  
25 ~~Article 8. Antitrust Immunity~~

- 26
- 27 ~~42378. (a) Except as provided in subdivision (b), an action~~
- 28 ~~relating to the establishment, administration, collection, or~~
- 29 ~~disbursement of the funds associated with implementation of this~~
- 30 ~~chapter that is taken by the plastic packaging stewardship~~
- 31 ~~organization or its members is not a violation of the Cartwright~~
- 32 ~~Act (Chapter 2 (commencing with Section 16700) of Part 2 of~~
- 33 ~~Division 7 of the Business and Professions Code), the Unfair~~
- 34 ~~Practices Act (Chapter 4 (commencing with Section 17000) of~~
- 35 ~~Part 2 of Division 7 of the Business and Professions Code), or the~~
- 36 ~~Unfair Competition Law (Chapter 5 (commencing with Section~~
- 37 ~~17200) of Part 2 of Division 7 of the Business and Professions~~
- 38 ~~Code).~~
- 39 ~~(b) Subdivision (a) shall not apply to an agreement that does~~
- 40 ~~any of the following:~~

1 ~~(1) Fixes a price of or for plastic packaging.~~

2 ~~(2) Fixes the output or production of plastic packaging.~~

3 ~~(3) Restricts the geographic area in which, or customers to~~  
4 ~~whom, plastic packaging will be sold.~~

5 ~~SEC. 3. Section 43020.2 is added to the Public Resources Code,~~  
6 ~~to read:~~

7 ~~43020.2. (a) A solid waste landfill that receives solid waste~~  
8 ~~that contains plastic packaging material may landfill the plastic~~  
9 ~~packaging material, but is encouraged to send solid waste~~  
10 ~~containing plastic packaging material received to a material~~  
11 ~~recovery facility, a secondary sorting facility, or a recycling facility~~  
12 ~~that has the capability to sort, separate, or recycle plastic packaging~~  
13 ~~material.~~

14 ~~(b) For purposes of this section, the definitions of Chapter 6~~  
15 ~~(commencing with Section 42370) of Part 3 shall apply.~~

16 ~~SEC. 4. Section 43020.3 is added to the Public Resources Code,~~  
17 ~~to read:~~

18 ~~43020.3. (a) A material recovery facility may send residual~~  
19 ~~materials containing plastic packaging to a secondary sorting~~  
20 ~~facility with the capability of sorting or separating plastic~~  
21 ~~packaging material from the residual material for recycling.~~

22 ~~(b) For purposes of this section, the definitions of Chapter 6~~  
23 ~~(commencing with Section 42370) of Part 3 shall apply.~~



AMENDED IN SENATE JUNE 26, 2018

AMENDED IN SENATE JUNE 7, 2018

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 24, 2018

AMENDED IN ASSEMBLY APRIL 10, 2018

CALIFORNIA LEGISLATURE—2017-18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1801**

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**Introduced by Assembly Member Nazarian**

January 9, 2018

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An act to add and repeal Article 6.7 (commencing with Section 124123) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, relating to newborns.

LEGISLATIVE COUNSEL'S DIGEST

AB 1801, as amended, Nazarian. Newborns: cytomegalovirus public education and testing.

Existing law requires the State Department of Public Health to establish a statewide program for the screening of newborns for specified genetic diseases. Existing law requires the department to establish a genetic disease unit to, among other things, evaluate and prepare recommendations on the implementation of tests for the detection of hereditary and congenital diseases. Existing law also requires the department to establish a statewide birth defects monitoring program.

Existing law, the Newborn and Infant Hearing Screening, Tracking and Intervention Act, requires a general acute care hospital with licensed perinatal services to administer to a newborn, upon birth admission, a

hearing screening test for the identification of hearing loss, using protocols approved by the State Department of Health Care Services or its designee, unless the newborn’s parent or guardian objects to the test, as specified. Existing law requires the department to develop and implement a reporting and tracking system for newborns and infants tested for hearing loss, as specified. Existing law authorizes the department to conduct a community outreach and awareness campaign to inform medical providers, pregnant women, and the families of newborns and infants about the newborn hearing screening program, as specified.

This bill would, until January 1, 2023, require the State Department of Health Care Services to establish a commission on Cytomegalovirus (CMV) Public Education and Testing. The bill would require the commission to examine research and data relating to congenital CMV, as specified. The bill would require the director of the department to appoint members to the commission, as specified. The bill would require the commission to submit a report to the Legislature on or before December 31, 2019, and an additional report on or before December 31, 2022, as specified.

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

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

1 SECTION 1. Article 6.7 (commencing with Section 124123)  
 2 is added to Chapter 3 of Part 2 of Division 106 of the Health and  
 3 Safety Code, to read:  
 4  
 5 Article 6.7. Establishing a Commission on Cytomegalovirus  
 6 Public Education and Testing  
 7  
 8 124123. As used in this article, the following definitions apply:  
 9 (a) “CMV” means cytomegalovirus.  
 10 (b) “Newborn” shall have the same meaning as provided in  
 11 Section 124116.  
 12 (c) “Department” means the State Department of Health Care  
 13 Services.  
 14 124123.1. (a) The department shall establish a Commission  
 15 on CMV Public Education and Testing. The commission shall be

1 required to implement this article only to the extent funds are  
2 appropriated by the Legislature for these purposes.

3 (b) It is the intent of the Legislature that the reports submitted  
4 pursuant to this article be used as a resource for possible legislation  
5 to examine and identify potential public educational resources to  
6 inform pregnant women and women who may become pregnant  
7 about CMV and to identify children born with CMV in order to  
8 improve their health and developmental outcomes.

9 124123.2. (a) The commission shall submit a report no later  
10 than December 31, 2019, and an additional report no later than  
11 December 31, 2022, that includes its findings. The commission  
12 may submit additional reports, as it deems it appropriate. The  
13 reports may also include recommendations for possible legislation.  
14 The commission shall distribute its reports to the appropriate policy  
15 committees of the Legislature. The department shall make the  
16 reports publicly available on its Internet Web site.

17 (b) If the commission deems it appropriate to make  
18 recommendations, including, but not limited to, legislative  
19 recommendations, those recommendations shall be evidence-based  
20 and data driven.

21 (c) A report to be submitted pursuant to subdivision (a) shall  
22 be submitted in compliance with Section 9795 of the Government  
23 Code.

24 124123.3. (a) The commission shall consist of 13 members,  
25 appointed by the director of the department, as follows:

26 (1) One member who is an infectious disease specialist who has  
27 experience with CMV.

28 (2) One member who is an obstetrician.

29 (3) One member who is a family physician and is involved with  
30 management of pregnancy and delivery of newborns.

31 (4) One member who is a labor and delivery nurse or nurse  
32 manager.

33 (5) One member who is a parent of a child that has been affected  
34 with a birth defect resulting from infection with CMV.

35 (6) One member who is a general pediatrician who practices  
36 primary care.

37 (7) One member from the California Department of Public  
38 Health Newborn Screening Program.

39 (8) One member from the State Department of Health Care  
40 Services Newborn Hearing Screening Program.

- 1 (9) One member who is an audiologist.
- 2 (10) One member who is a pediatric otolaryngologist.
- 3 (11) One member who is a pediatric speech therapist.
- 4 ~~(12) One member from the California Association of Health~~
- 5 ~~Plans, the Association of California Life and Health Insurance~~
- 6 ~~Companies, or America’s Health Insurance Plans. who is a~~
- 7 ~~representative of health plans or insurers.~~
- 8 ~~(13) One member from the California Hospitals Association.~~
- 9 ~~who is a representative of hospitals.~~
- 10 (b) The department shall designate a member to serve as the
- 11 chair of the commission.
- 12 (c) All appointments shall be made no later than January 31,
- 13 2019. Within 15 days after appointment of all members, the chair
- 14 shall convene the initial meeting of the commission.
- 15 (d) The commission shall meet at least once every six months.
- 16 124123.4. (a) The commission shall examine research and
- 17 data relating to, but not limited to, early identification, testing of
- 18 congenital CMV, and appropriate treatment of birth defects caused
- 19 by congenital CMV.
- 20 (b) The commission shall also examine and identify possible
- 21 public educational resources to inform pregnant women and women
- 22 who may become pregnant that include, but are not limited to:
- 23 (1) Information regarding the incidence of CMV.
- 24 (2) The transmission of CMV during and before pregnancy.
- 25 (3) Birth defects caused by congenital CMV.
- 26 (4) Methods of diagnosing congenital CMV.
- 27 (5) Available preventive measures.
- 28 (6) Resources for the family of a child born with congenital
- 29 CMV.
- 30 (c) The department shall provide or recommend necessary
- 31 staffing services to the commission, including, but not limited to,
- 32 staffing offered through the California Medical Association or the
- 33 California Chapter of the American Academy of Pediatrics, to the
- 34 extent permitted by law.
- 35 124123.5. This article shall remain in effect only until January
- 36 1, 2023, and as of that date is repealed.

O

AMENDED IN SENATE JUNE 20, 2018  
AMENDED IN ASSEMBLY MAY 25, 2018  
AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2138**

---

**Introduced by Assembly Members Chiu and Low**

February 12, 2018

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An act to amend Sections 7.5, 480, 481, 482, 488, ~~490, 492, 493,~~ and 11345.2 ~~of, and to add Section 481.5 to,~~ of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to

determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding ~~5~~ 7 years, except for ~~violent~~ *serious* felonies, and would require the crime to be ~~directly and adversely~~ *substantially* related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has ~~made a showing~~ *provided evidence* of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. ~~The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.~~

The bill would require the board to develop criteria for determining whether a crime is ~~directly and adversely~~ *substantially* related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

~~Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the~~

~~licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.~~

~~This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.~~

~~Existing law authorizes a board board, after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the licensee. actions in relation to denying or granting the applicant the license.~~

~~This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days. revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.~~

~~This bill would also make necessary conforming changes.~~

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

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

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a plea of nolo
- 5 contendere or finding of guilt. Any action which a board is
- 6 permitted to take following the establishment of a conviction may

1 be taken when the time for appeal has elapsed, or the judgment of  
2 conviction has been affirmed on appeal or when an order granting  
3 probation is made suspending the imposition of sentence. However,  
4 a board may not deny a license to an applicant who is otherwise  
5 qualified pursuant to subdivision (b) or (c) of Section 480.

6 (b) (1) Nothing in this section shall apply to the licensure of  
7 persons pursuant to Chapter 4 (commencing with Section 6000)  
8 of Division 3.

9 (2) *The changes made to this section by the act adding this*  
10 *paragraph do not in any way modify or otherwise affect the existing*  
11 *authority of the following entities in regard to licensure:*

12 (A) *The State Athletic Commission.*

13 (B) *The Bureau for Private Postsecondary Education.*

14 (c) Except as provided in subdivision (b), this section controls  
15 over and supersedes the definition of conviction contained within  
16 individual practice acts under this code.

17 SEC. 2. Section 480 of the Business and Professions Code is  
18 amended to read:

19 480. (a) ~~(1)~~ Notwithstanding any other provision of this code,  
20 a board may deny a license regulated by this code on the grounds  
21 that the applicant has been convicted of a crime or has been subject  
22 to formal discipline only if either of the following conditions are  
23 met:

24 ~~(A)~~

25 (1) The applicant has been convicted of a crime for which the  
26 applicant is presently incarcerated or for which the conviction  
27 occurred within the preceding ~~five~~ *seven* years. However, the  
28 preceding ~~five-year~~ *seven-year* limitation shall not apply to a  
29 conviction for a ~~violent~~ *serious* felony, as defined in ~~Section 667.5~~  
30 ~~of~~ the Penal Code.

31 The board may deny a license pursuant to this subparagraph only  
32 if the crime is ~~directly and adversely~~ *substantially* related to the  
33 qualifications, functions, or duties of the business or profession  
34 for which application is made.

35 ~~(B)~~

36 (2) The applicant has been subjected to formal discipline by a  
37 licensing board within the preceding five years based on  
38 professional misconduct that would have been cause for discipline  
39 before the board for which the present application is made and that  
40 is ~~directly and adversely~~ *substantially* related to the qualifications,



1 functions, or duties of the business or profession for which the  
2 present application is made. However, prior disciplinary action by  
3 a licensing board within the preceding ~~five~~ *seven* years shall not  
4 be the basis for denial of a license if the basis for that disciplinary  
5 action was a conviction that has been dismissed pursuant to Section  
6 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable  
7 dismissal or expungement.

8 ~~(2) Denial of a license includes denial of an unrestricted license  
9 by issuance of a restricted or probationary license.~~

10 (b) Notwithstanding any other provision of this code, a person  
11 shall not be denied a license on the basis that he or she has been  
12 convicted of a crime, or on the basis of acts underlying a conviction  
13 for a crime, if he or she has obtained a certificate of rehabilitation  
14 under Chapter 3.5 (commencing with Section 4852.01) of Title 6  
15 of Part 3 of the Penal Code, has been granted clemency or a pardon  
16 by a state or federal executive, or has ~~made a showing~~ *provided*  
17 *evidence* of rehabilitation pursuant to Section 482.

18 (c) Notwithstanding any other provision of this code, a person  
19 shall not be denied a license on the basis of any conviction, or on  
20 the basis of the acts underlying the conviction, that has been  
21 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the  
22 Penal Code, or a comparable dismissal or expungement. An  
23 applicant who has a conviction that has been dismissed pursuant  
24 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code  
25 shall provide proof of the dismissal if it is not reflected on the  
26 report furnished by the Department of Justice.

27 (d) Notwithstanding any other provision of this code, a board  
28 shall not deny a license on the basis of an arrest that resulted in a  
29 disposition other than a conviction, including an arrest that resulted  
30 in an infraction, citation, or a juvenile adjudication.

31 (e) A board may deny a license regulated by this code on the  
32 ground that the applicant knowingly made a false statement of fact  
33 that is required to be revealed in the application for the license. A  
34 board shall not deny a license based solely on an applicant's failure  
35 to disclose a fact that would not have been cause for denial of the  
36 license had it been disclosed.

37 (f) A board shall follow the following procedures in requesting  
38 or acting on an applicant's criminal history information:

1 (1) A board shall not require an applicant for licensure to  
2 disclose any information or documentation regarding the  
3 applicant's criminal history.

4 (2) If a board decides to deny an application based solely or in  
5 part on the applicant's conviction history, the board shall notify  
6 the applicant in writing of all of the following:

7 (A) The denial or disqualification of licensure.

8 (B) Any existing procedure the board has for the applicant to  
9 challenge the decision or to request reconsideration.

10 (C) That the applicant has the right to appeal the board's  
11 decision.

12 (D) The processes for the applicant to request a copy of his or  
13 her complete conviction history and question the accuracy or  
14 completeness of the record pursuant to Sections 11122 to 11127  
15 of the Penal Code.

16 (g) (1) For a minimum of three years, each board under this  
17 code shall retain application forms and other documents submitted  
18 by an applicant, any notice provided to an applicant, all other  
19 communications received from and provided to an applicant, and  
20 criminal history reports of an applicant.

21 (2) Each board under this code shall retain the number of  
22 applications received for each license and the number of  
23 applications requiring inquiries regarding criminal history. In  
24 addition, each licensing authority shall retain all of the following  
25 information:

26 (A) The number of applicants with a criminal record who  
27 received notice of denial or disqualification of licensure.

28 (B) The number of applicants with a criminal record who  
29 provided evidence of mitigation or rehabilitation.

30 (C) The number of applicants with a criminal record who  
31 appealed any denial or disqualification of licensure.

32 (D) The final disposition and demographic information,  
33 including, but not limited to, voluntarily provided information on  
34 race or gender, of any applicant described in subparagraph (A),  
35 (B), or (C).

36 (3) (A) Each board under this code shall annually make  
37 available to the public through the board's Internet Web site and  
38 through a report submitted to the appropriate policy committees  
39 of the Legislature deidentified information collected pursuant to

1 this subdivision. Each board shall ensure confidentiality of the  
2 individual applicants.

3 (B) A report pursuant to subparagraph (A) shall be submitted  
4 in compliance with Section 9795 of the Government Code.

5 (h) "Conviction" as used in this section shall have the same  
6 meaning as defined in Section 7.5.

7 ~~(i) This section supersedes any contradictory provision in a  
8 licensing act under this code or initiative act referred to in Division  
9 2 (commencing with Section 500) that authorizes license denial  
10 based on a criminal conviction, arrest, or the acts underlying an  
11 arrest or conviction.~~

12 *(i) The changes made to this section by the act adding this  
13 subdivision do not in any way modify or otherwise affect the  
14 existing authority of the following entities in regard to licensure:*

15 *(1) The State Athletic Commission.*

16 *(2) The Bureau for Private Postsecondary Education.*

17 SEC. 3. Section 481 of the Business and Professions Code is  
18 amended to read:

19 481. (a) Each board under this code shall develop criteria to  
20 aid it, when considering the denial, suspension, or revocation of  
21 a license, to determine whether a crime is ~~directly and adversely~~  
22 *substantially* related to the qualifications, functions, or duties of  
23 the business or profession it regulates.

24 (b) Criteria for determining whether a crime is ~~directly and~~  
25 ~~adversely~~ *substantially* related to the qualifications, functions, or  
26 duties of the business or profession a board regulates shall include  
27 all of the following:

28 (1) The nature and gravity of the offense.

29 (2) The number of years elapsed since the date of the offense.

30 (3) The nature and duties of the profession in which the applicant  
31 seeks licensure or in which the licensee is licensed.

32 (c) A board shall not deny a license based in whole or in part  
33 on a conviction without considering evidence of rehabilitation.

34 (d) Each board shall post on its Internet Web site a summary of  
35 the criteria used to consider whether a crime is considered to be  
36 ~~directly and adversely~~ *substantially* related to the qualifications,  
37 functions, or duties of the business or profession it regulates  
38 consistent with this section.

1 (e) *The changes made to this section by the act adding this*  
2 *subdivision do not in any way modify or otherwise affect the*  
3 *existing authority of the following entities in regard to licensure:*

4 (1) *The State Athletic Commission.*

5 (2) *The Bureau for Private Postsecondary Education.*

6 ~~SEC. 4. Section 481.5 is added to the Business and Professions~~  
7 ~~Code, to read:~~

8 ~~481.5. (a) Probationary terms or restrictions placed on a license~~  
9 ~~by a board shall be limited to two years or less. Any additional~~  
10 ~~conditions may be imposed only if the board determines that there~~  
11 ~~is clear and convincing evidence that additional conditions are~~  
12 ~~necessary to address a risk shown by clear and convincing~~  
13 ~~evidence.~~

14 ~~(b) Each board under this code shall develop criteria to aid it~~  
15 ~~when considering the imposition of probationary conditions or~~  
16 ~~restrictions to determine what conditions may be imposed to~~  
17 ~~address a risk shown by clear and convincing evidence.~~

18 ~~(c) (1) A licensee or registrant whose license or registration~~  
19 ~~has been placed on probation may petition the board for a change~~  
20 ~~to the probation, including modification or termination of~~  
21 ~~probation, one year from the effective date of the decision. The~~  
22 ~~board shall issue its decision on the petition within 90 days of~~  
23 ~~submission of the petition. The petition shall be deemed granted~~  
24 ~~by operation of law if the board does not file a decision denying~~  
25 ~~the petition within 90 days of submission of the petition.~~

26 ~~(2) The one-year time period to petition for modification or~~  
27 ~~termination of penalty shall control over longer time periods under~~  
28 ~~a licensing act under this code or initiative act referred to in~~  
29 ~~Division 2 (commencing with Section 500).~~

30 ~~SEC. 5.~~

31 ~~SEC. 4. Section 482 of the Business and Professions Code is~~  
32 ~~amended to read:~~

33 ~~482. (a) Each board under this code shall develop criteria to~~  
34 ~~evaluate the rehabilitation of a person when doing either of the~~  
35 ~~following:~~

36 ~~(1) Considering the denial of a license by the board under~~  
37 ~~Section 480.~~

38 ~~(2) Considering suspension or revocation of a license under~~  
39 ~~Section 490.~~

1 (b) Each board shall ~~find~~ *consider* that an applicant or licensee  
2 has made a showing of rehabilitation if ~~any~~ *either* of the following  
3 are met:

4 (1) The applicant or licensee has completed the criminal  
5 sentence at issue without a violation of parole or probation.

6 ~~(2) (A) The applicant or licensee documents that he or she has  
7 worked in a related field continuously for at least one year prior  
8 to licensure or successfully completed a course of training in a  
9 related field, unless the board finds a public record of an official  
10 finding that the applicant committed professional misconduct in  
11 the course of that work.~~

12 ~~(B) Work in a related field may include, but is not limited to,  
13 work performed without compensation and work performed while  
14 incarcerated.~~

15 ~~(C) “Related field,” for purposes of this paragraph, means a  
16 field of employment whose duties are substantially similar to the  
17 field regulated by the board.~~

18 ~~(3)~~

19 (2) The applicant or licensee has satisfied criteria for  
20 rehabilitation developed by the board.

21 (c) *The changes made to this section by the act adding this  
22 subdivision do not in any way modify or otherwise affect the  
23 existing authority of the following entities in regard to licensure:*

24 (1) *The State Athletic Commission.*

25 (2) *The Bureau for Private Postsecondary Education.*

26 ~~SEC. 6.~~

27 *SEC. 5.* Section 488 of the Business and Professions Code is  
28 amended to read:

29 488. Except as otherwise provided by law, following a hearing  
30 requested by an applicant pursuant to subdivision (b) of Section  
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing  
33 requirements by the applicant.

34 ~~(b) Grant the license effective upon completion of all licensing  
35 requirements by the applicant, grant the license and immediately  
36 issue a public reproof pursuant to Section 495, immediately revoke  
37 the license, stay the revocation, and impose probationary conditions  
38 on the license, which may include suspension.~~

39 ~~(e)~~

40 (b) Deny the license.

1     ~~(d)~~

2     (c) Take other action in relation to denying or granting the  
3 license as the board in its discretion may deem proper.

4     (d) *The changes made to this section by the act adding this*  
5 *subdivision do not in any way modify or otherwise affect the*  
6 *existing authority of the following entities in regard to licensure:*

7         (1) *The State Athletic Commission.*

8         (2) *The Bureau for Private Postsecondary Education.*

9     ~~SEC. 7. Section 490 of the Business and Professions Code is~~  
10 ~~amended to read:~~

11     ~~490. (a) (1) In addition to any other action that a board is~~  
12 ~~permitted to take against a licensee, a board may suspend or revoke~~  
13 ~~a license on the ground that the licensee has been convicted of a~~  
14 ~~crime for which the applicant is presently incarcerated or for which~~  
15 ~~the conviction occurred within the preceding five years. However,~~  
16 ~~the preceding five year limitation shall not apply to a conviction~~  
17 ~~for a violent felony, as defined in Section 667.5 of the Penal Code.~~

18     ~~(2) The board may suspend or revoke a license pursuant to this~~  
19 ~~subdivision only if the crime is directly and adversely related to~~  
20 ~~the qualifications, functions, or duties of the business or profession~~  
21 ~~for which application is made.~~

22     ~~(b) Notwithstanding any other provision of law, a board may~~  
23 ~~exercise any authority to discipline a licensee for conviction of a~~  
24 ~~crime that is independent of the authority granted under subdivision~~  
25 ~~(a) only if both of the following are met:~~

26         ~~(1) The crime is directly and adversely related to the~~  
27 ~~qualifications, functions, or duties of the business or profession~~  
28 ~~for which the licensee's license was issued.~~

29         ~~(2) The licensee was convicted of the crime within the preceding~~  
30 ~~five years or is presently incarcerated for the crime. However, the~~  
31 ~~preceding five year limitation shall not apply to a conviction for~~  
32 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

33     ~~(c) Notwithstanding any other provision of this code, a board~~  
34 ~~shall not suspend or revoke a license on the basis of a conviction,~~  
35 ~~or of the acts underlying a conviction, where that conviction has~~  
36 ~~been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or~~  
37 ~~1203.42 of the Penal Code or a comparable dismissal or~~  
38 ~~expungement.~~

39     ~~(d) Notwithstanding any other provision of this code, a board~~  
40 ~~shall not suspend or revoke a license on the basis of an arrest that~~

1 resulted in a disposition other than a conviction, including an arrest  
2 that resulted in an infraction, citation, or juvenile adjudication:

3 (e) ~~The board shall use the following procedures in requesting  
4 or acting on a licensee's criminal history information:~~

5 (1) ~~A board shall not require a licensee to disclose any  
6 information or documentation regarding the licensee's criminal  
7 history:~~

8 (2) ~~If a board chooses to file an accusation against a licensee  
9 based solely or in part on the licensee's conviction history, the  
10 board shall notify the licensee in writing of the processes for the  
11 licensee to request a copy of the licensee's complete conviction  
12 history and question the accuracy or completeness of his or her  
13 criminal record pursuant to Sections 11122 to 11127, inclusive,  
14 of the Penal Code:~~

15 (f) (1) ~~For a minimum of three years, each board under this  
16 code shall retain all documents submitted by a licensee, notices  
17 provided to a licensee, all other communications received from or  
18 provided to a licensee, and criminal history reports of a licensee:~~

19 (2) ~~Each board under this code shall retain all of the following  
20 information:~~

21 (A) ~~The number of licensees with a criminal record who received  
22 notice of potential revocation or suspension of their license or who  
23 had their license suspended or revoked:~~

24 (B) ~~The number of licensees with a criminal record who  
25 provided evidence of mitigation or rehabilitation:~~

26 (C) ~~The number of licensees with a criminal record who  
27 appealed any suspension or revocation of a license:~~

28 (D) ~~The final disposition and demographic information,  
29 including, but not limited to, voluntarily provided information on  
30 race or gender, of any applicant described in subparagraph (A),  
31 (B), or (C):~~

32 (3) (A) ~~Each board under this code shall annually make  
33 available to the public through the board's Internet Web site and  
34 through a report submitted to the appropriate policy committees  
35 of the Legislature deidentified information collected pursuant to  
36 this subdivision. Each board shall ensure the confidentiality of the  
37 individual licensees:~~

38 (B) ~~A report pursuant to subparagraph (A) shall be submitted  
39 in compliance with Section 9795 of the Government Code:~~

1 ~~(g) (1) This section supersedes any contradictory provision in~~  
2 ~~a licensing act under this code or initiative act referred to in~~  
3 ~~Division 2 (commencing with Section 500) that authorizes action~~  
4 ~~based on a criminal conviction, arrest, or the acts underlying an~~  
5 ~~arrest or conviction.~~

6 ~~(2) This section shall not prohibit any agency from taking~~  
7 ~~disciplinary action against a licensee for professional misconduct~~  
8 ~~in the course and scope of the licensee's profession that is based~~  
9 ~~on evidence that is independent of an arrest.~~

10 ~~SEC. 8. Section 492 of the Business and Professions Code is~~  
11 ~~amended to read:~~

12 ~~492. (a) Notwithstanding any other provision of law, successful~~  
13 ~~completion of any diversion program under the Penal Code,~~  
14 ~~successful completion by a licensee or applicant of any~~  
15 ~~nonstatutory diversion program, deferred entry of judgment, or~~  
16 ~~successful completion of an alcohol and drug problem assessment~~  
17 ~~program under Article 5 (commencing with Section 23249.50) of~~  
18 ~~Chapter 12 of Division 11 of the Vehicle Code, shall prohibit any~~  
19 ~~board from taking disciplinary action against a licensee or from~~  
20 ~~denying a license for professional misconduct.~~

21 ~~(b) This section shall not prohibit any agency established under~~  
22 ~~Division 2 (commencing with Section 500) of this code, or any~~  
23 ~~initiative act referred to in that division, from taking disciplinary~~  
24 ~~action against a licensee for professional misconduct in the course~~  
25 ~~and scope of the profession, which is based on evidence that is~~  
26 ~~independent of an arrest.~~

27 ~~SEC. 9.~~

28 ~~SEC. 6. Section 493 of the Business and Professions Code is~~  
29 ~~amended to read:~~

30 ~~493. (a) Notwithstanding any other provision of law, in a~~  
31 ~~proceeding conducted by a board within the department pursuant~~  
32 ~~to law to deny an application for a license or to suspend or revoke~~  
33 ~~a license or otherwise take disciplinary action against a person~~  
34 ~~who holds a license, upon the ground that the applicant or the~~  
35 ~~licensee has been convicted of a crime directly and adversely~~  
36 ~~substantially related to the qualifications, functions, and duties of~~  
37 ~~the licensee in question, the record of conviction of the crime shall~~  
38 ~~be conclusive evidence of the fact that the conviction occurred,~~  
39 ~~but only of that fact.~~



1 (b) (1) Criteria for determining whether a crime is ~~directly and~~  
2 ~~adversely~~ *substantially* related to the qualifications, functions, or  
3 duties of the business or profession the board regulates shall include  
4 all of the following:

5 (A) The nature and gravity of the offense.

6 (B) The number of years elapsed since the date of the offense.

7 (C) The nature and duties of the profession.

8 (2) A board shall not categorically bar an applicant based solely  
9 on the type of conviction without considering evidence of  
10 rehabilitation.

11 (c) As used in this section, “license” includes “certificate,”  
12 “permit,” “authority,” and “registration.”

13 (d) *The changes made to this section by the act adding this*  
14 *subdivision do not in any way modify or otherwise affect the*  
15 *existing authority of the following entities in regard to licensure:*

16 (1) *The State Athletic Commission.*

17 (2) *The Bureau for Private Postsecondary Education.*

18 ~~SEC. 10.~~

19 *SEC. 7.* Section 11345.2 of the Business and Professions Code  
20 is amended to read:

21 11345.2. (a) An individual shall not act as a controlling person  
22 for a registrant if any of the following apply:

23 (1) The individual has entered a plea of guilty or no contest to,  
24 or been convicted of, a felony. If the individual’s felony conviction  
25 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41  
26 of the Penal Code, the bureau may allow the individual to act as  
27 a controlling person.

28 (2) The individual has had a license or certificate to act as an  
29 appraiser or to engage in activities related to the transfer of real  
30 property refused, denied, canceled, or revoked in this state or any  
31 other state.

32 (b) Any individual who acts as a controlling person of an  
33 appraisal management company and who enters a plea of guilty  
34 or no contest to, or is convicted of, a felony, or who has a license  
35 or certificate as an appraiser refused, denied, canceled, or revoked  
36 in any other state shall report that fact or cause that fact to be  
37 reported to the office, in writing, within 10 days of the date he or  
38 she has knowledge of that fact.

O

**Speech-Language Pathology & Audiology  
& Hearing Aid Dispensers Board  
CALENDAR - FISCAL YEAR 2018/2019**

Rev. 3/8/18

Month	Date	Description
July 2018	4 21	State Holiday – Office Closed - Fourth of July Practical Examination
August 2018	9-10	Board & Committee Meetings – San Diego
September 2018	3 14-15	State Holiday – Office Closed – Labor Day CAA Convention – Anaheim, CA
October 2018	4-6 13	National Council of State Boards of Examiners for Speech-Language Pathology and Audiology – Tysons Corner, VA Practical Examinaiton
November 2018	8-9 15-17 12 22-23	Board & Committee Meeting – Sacramento ASHA Convention – Boston, MA State Holiday – Office Closed – Veteran’s Day Observed State Holiday – Office Closed – Thanksgiving Holiday
December 2018	25	State Holiday – Office Closed - Christmas Day
January 2019	1 21	State Holiday – Office Closed – New Year’s Day State Holiday – Office Closed – Martin Luther King Jr. Day
February 2019	7-8 18	Board & Committee Meeting – Los angeles State Holiday – Office Closed – Presidents Day
March 2019	27-30 31	American Academy of Audiology – Columbus, OH State Holiday – Caesar Chavez Day
April 2019	1	State Holiday – Office Closed - Caesar Chavez Day Observed
May 2019	2-3 TBD 27	Board & Committee Meeting - TBD HHP Convention - TBD State Holiday – Office Closed – Memorial Day
June 2019		