



BOARD MEETING NOTICE AND AGENDA
*Thursday, April 11, 2019 beginning at 1:30 p.m., and continuing on
Friday, April 12, 2019 beginning at 9:00 a.m.*

**Mt. San Antonio College
Building 9C – Stage
1100 N Grand Avenue
Walnut, CA 91789
(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
Christy Cooper, Audiologist

1:30 p.m. Full Board Meeting

1. Call to Order / Roll Call / Establishment of Quorum
2. Approval of the November 29 - 30, 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 regarding Regulations as a result of AB 2138 Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction (As Stated in Title 16, California Code of Regulations, sections 1399.132, 1399.133, 1399.134, 1399.156.1, 1399.156.2, 1399.156.3, and 1399.170.19)
5. Discussion and Possible Action regarding RPE Direct Monitoring Requirements and Remote or Tele Supervision (As Stated in Title 16, California Code of Regulations, sections 1399.153 and 1399.153.3)

Petition Hearings for Reinstatement of Licensure or Other Reduction of Penalty
(Time Certain: April 12, 2019 at 9:00 a.m.)

1. Petition for Reinstatement of Revoked License – Mary Sinclair, SLP, License # 3009

Closed Session

2. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate on Above Petition and Disciplinary Matters, Including Proposed Decisions, Stipulated Decisions, Defaults, Petitions for Reductions in Penalty.

Open Session

3. Executive Officer's Report
 - a. Administration Update
 - b. Budget Report
 - c. Licensing Report
 - d. Practical Examination Report
 - e. Enforcement Report
4. Legislation Update, Review, and Possible Action
 - a. AB 193 (Patterson) Professions and vocations
 - b. AB 312 (Cooley) State government: administrative regulations: review
 - c. AB 476 (Blanca Rubio) Department of Consumer Affairs: task force: foreign-trained professionals
 - d. AB 544 (Brough) Professions and vocations: inactive license fees and accrued and unpaid renewal fees
 - e. AB 598 (Bloom) Hearing aids: minors
 - f. AB 613 (Low) Professions and vocations: regulatory fees
 - g. AB 780 (Brough) Hearing aid dispensers: apprentice license
 - h. AB 862 (Kiley) Professions and vocations: License revocation and suspension: student loan default
 - i. AB 1075 (Holden) California State University: speech-language pathologist programs
 - j. AB 1545 (Oberholte) Civil penalty reduction policy
 - k. SB 53 (Wilk) Open meetings
 - l. SB 425 (Hill) Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct
 - m. SB 601 (Morrell) State agencies: licenses: fee waiver
 - n. SB 617 (Glazer) Audiologists and hearing aid dispensers: sales of hearing aids
5. Future Agenda Items and Future Board Meeting Dates
 - a. August
 - b. November
6. Adjournment

Agendas and materials can be found on the Board's website at 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
November 29-30, 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 1:55 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, SLP, Board Chair
Marcia Raggio, AuD, Vice Chair
Annon Shalev, HAD, Board Member
Debbie Snow, Public Board Member
Patti Solomon-Rice, SLP, Board Member
Christy Cooper, AuD, Board Member
Rodney Diaz, Otolaryngologist, Public Board Member

Staff Present

Paul Sanchez, Executive Officer
Breanne Humphreys, Program Manager
Kelsey Pruden, Legal Counsel
Chris Sanchez, DCA Web Cast
Katrina Martinez, Analyst
Heather Olivares, Analyst

Guests Present

Ed Washington, Administrative Law Judge
John Gatschet, Deputy Attorney General
David Illich
Tracy Montez, OPES
Amy White, CAA
Jasmine Zavala, Student
Jacque Georgeson, University of the Pacific
Rupa Balachandran, University of the Pacific
Sean Green, The Speech Pathology Group
Vanessa Cajina, HHP

Joe Bartlett, HHP
Caitlin Jung, CSHA
Christine Throm, CAA
Kirsten McWilliams
Brianna Miller, DCA Board and Bureau Services

2. Approval of the August 9-10, 2018 Board Meeting Minutes

M/S/C Diaz/Solomon-Rice

- **Motion to approve the August 9-10, 2018 meeting minutes as amended. The motion carried 6-0 with Mr. Shalev abstaining.**

3. Public Comment for Items not on the Agenda

Sean Green from The Speech Pathology Group thanked the licensing Board and staff for the work done to protect consumers and providing ethical and research-based practice in the field of speech-language pathology and audiology. Mr. Green raised concerns about the amount of licensing paperwork and the time it takes to process. He explained that the processing time for foreign educated applicants has increased this year which is preventing students from being seen [by a licensee]. He asked that the Board consider additional staff or improving technology to reduce the timelines as students' needs are not being met.

4. Discussion and Possible Action Regarding Board Action Taken on August 9, 2018, Regarding the Examination Requirement for Dispensing Audiologists

Paul Sanchez explained that this discussion is regarding the Board's action to accept the recommendation from the Office of Professional Examination Services (OPES) to remove the practical examination requirement for audiologists wishing to sell hearing aids, and for Board staff to work with legal and OPES to draft regulatory language to bring to the next meeting. Mr. Sanchez described Board member Amnon Shalev's concerns about the Board's motion. He explained the different options the Board could possibly take. Mr. Shalev described how this is a critical issue for public safety with taking an ear mold impression. He asked to fully deliberate the discussion before the Board takes any action. He reiterated his desire for the HAD Committee to discuss the occupational analysis (OA) before making any decisions and asked the Board to reconsider the previous vote and action.

Ms. Raggio asked who makes up the HAD Committee. The HAD Committee is comprised of two hearing aid dispensers, two audiologists, and two public members (one of which is a physician/otolaryngologist). Mr. Sanchez explained the purpose of a committee is to discuss issues for a smaller license type (such as an assistant license). Mr. Sanchez discussed two handouts for the Board meeting, test scores for the practical exam, and a letter HHP sent to the Board. He clarified that the Board has not ignored hearing aid dispensing issues and addresses issues and solicits input and feedback on these issues. Mr. Sanchez explained the reason the Board did not meet with HAD Committee on this specific issue is because it is an audiology issue, not a hearing aid dispensing issue. Rodney Diaz added that OPES gave a thoughtful analysis of the examination and the Board as a whole had a chance to make a decision. Mr. Diaz stated that the HAD Committee makes up almost the entire Board and without knowing when the Board would have another HAD member to offer further input it seemed prudent to make a decision with the majority of a HAD Committee and full Board present at the time. He expressed that his opinion wouldn't change at this point.

Ms. Raggio inquired if any of the Board members had changed their minds. Mr. Shalev commented that there is a difference in information given by OPES and new data presented today stating is 19 percent failure rate. Mr. Sanchez clarified that this information is presented in response to Mr. Shalev's request for three years of practical examination results. He explained that the data presented includes different data from the data analyzed by OPES. Ms. Raggio asked if the failure rate refers to the ear mold impression. Mr. Sanchez responded that the failure rate refers to those who failed the practical examination. The data reflects those who passed or failed regardless of the circumstances. Tracy Montez, with OPES, added that they are comfortable with the 19 percent failure rate. She elaborated that no exam is perfect, no programs have a 100 percent pass rate, there is some error involved with the exam due to incompetence, anxiety. Ms. Montez described how the practical examination is designed for the hearing aid dispensing profession. The hearing aid dispensing professional needs a high school diploma and to be 18 years old. Audiologists have many more criteria for becoming licensed (advanced degrees, supervised hours) which can work against them when they are taking an exam designed for a different type of profession.

Mr. Shalev stated that there is inconsistency with the way the Board is thinking about the exam and the safety issue. He elaborated that in regulation, hearing aid dispensers licensed in another state, who can show they worked for two years in that state, can apply for a license in California and work for one year without supervision, before passing the exams. Mr. Shalev declared that exempting audiologists who just finished school or audiologists who were licensed 20-30 years ago and have never dispensed before is not treated equally to the dispenser from out of state who has done hundreds of impressions. This is a safety issue. He detailed how some audiologists at Kaiser in southern California do not conduct ear impressions for hearing aids or swim molds, they instead send these out for referrals. He questioned why audiologists cannot take the practical exam one time to practice in California. Mr. Shalev offered the alternative issuing a temporary license issued for audiologists to work while taking and passing the exams (similar to dispensers licensed in another state). Amy White reiterated that audiologists can, and will, and do ear mold impressions without being dispensing audiologists, as this is well within their scope of practice. Ms. White elaborated that with the merging of the Boards it gives the impression that hearing aid dispensers and audiologists are the same, but they are not the same. She questioned why the HAD Committee would be the committee discussing the exam requirements for audiologists and not an audiology committee. Jacque Georgeson commented that she knows there are non-dispensing audiologists who take ear mold impressions at Kaiser in southern California because she has placed students there who have had the opportunity to take impressions. She added that many pediatric hospitals do not have dispensing audiologists, but they will do the fitting and the follow up including the ear mold impression.

Kelsey Pruden clarified that the statute defines the scope of practice for audiologists to include the selling of hearing aids (BCP 2530.2(k)), however, in the State of California, no audiologist shall sell hearing aids unless he or she completes an application for a dispensing license, pays all applicable fees, and passes an examination approved by the Board related to the selling of hearing aids (BCP 2539.1(a)(1)).

Mr. Shalev and Ms. Georgeson discussed their knowledge regarding audiologists performing ear mold impressions at different Kaisers. Mr. Sanchez commented that whether Kaiser allows it or not, we've established what's within the practice act.

Vanessa Cajina, with Hearing Healthcare Providers (HHP), expressed concern over taking away the practical exam requirement and the erosion between the audiologist and dispensing audiologist. She asked that this matter be referred to the HAD Committee and that HHP elucidated this more in the letter sent to the Board. Joe Bartlett described how the fitting and selling of hearing aids is not just ear mold

impressions. He explained that hearing aids can create upwards of 130 decibels and if not fit correctly by somebody who understands what they are doing, immediate damage to the individual's hearing can occur. Mr. Bartlett elaborated that quality control for California consumers is covered in the practical exam. He inquired as to whether someone can earn an audiology degree, do poorly on hearing aids in the national exam, and then come to California and work with devices that have the capacity to cause damage. The practical exam requirement is used for quality control for California consumers. Mr. Sanchez responded to HHP's comments and the letter sent to the Board by explaining that this is a separate issue from first time test takers, this issue is regarding whether audiologists are receiving the proper amount of training in their programs. Mr. Bartlett added that an outside source is needed to compare the state test and the national test. Mr. Sanchez explained that OPES has already compared the tests.

Rupa Balachandran, with the University of the Pacific, addressed the consumer safety concerns pertaining to audiology training programs. She explained that students are trained in amplification similar to accredited programs across the nation. Ms Rupa described the three courses that students are required to complete specific to hearing aids. She added that the audiology profession is not independent from recommending or dispensing hearing aids; any audiology program, including UOP's program, includes intensive and rigorous curriculum focused on aspects of hearing loss including otoscopy, ear mold impressions, fitting hearing aids, and probe-mic measures. Mr. Shalev stated that he would like to review the curriculum data with the HAD Committee. He questioned whether the audiologists who completed master's degrees in audiology received the same quality of education. Ms. Balachandran replied that she could only attest to current curriculum standards. Mr. Sanchez pointed out that legal counsel already addressed what an audiologist can do regardless of taking the practical exam they can do everything discussed with the exception of *selling* hearing aids.

Mr. Shalev brought up the issue regarding the cost of the practical exam and lost revenue from audiologists no longer needing to take the exam. Mr. Sanchez clarified that the application fees are based on the cost of the practical exam. Mr. Shalev opined that the revenue from the practical exam could allow the Board to hold an exam in southern California. Ms. Montez added that other Boards experienced standardization issues with administering exams in northern and southern California. The discussion of the practical exam being offered in southern California was noted as a possible future agenda item.

Ms. Montez addressed the concerns for audiologists that may have been licensed some time ago being able to dispense hearing aids. She explained that by developing regulations with parameters that may allow grandfathering individuals in based on the recency of their education to make sure they have met the current curriculum standards. Ms. Pruden expounded on the fact that the statute is very specific with the requirements for a dispensing audiologist. There may not be enough flexibility with the regulation and it would require a statutory change.

Ms. Raggio repeated the question whether any Board members had changed their minds. She added that the Board has an Audiology Practice Committee and she agreed that this issue would be best relegated to this committee rather than the HAD Committee. The Audiology Practice Committee consists of two audiologists, and two public members (one of which is a physician/otolaryngologist).

M/S/F Shalev/Solomon-Rice

- **Motion to reconsider the prior Board's vote to accept OPES recommendation regarding the practical exam requirements for dispensing audiologists and continue the discussion at the committee level. The motion failed with 4-2 with Ms. Cooper abstaining.**

5. Proposed Regulations – Discussion and Possible Action

Mr. Sanchez introduced Heather Olivares, a new Board staff member. He added that she is a regulation and legislation analyst and that this new position was created to help the Board move forward with regulatory packages.

- a. Dispensing Audiologist Examination Requirement – Title 16, California Code of Regulations, Section 1399.152.4

Ms. Olivares explained that since the Board maintained its position to accept OPES recommendation, the next step is to implement the action by developing regulation. She provided an overview of the proposed language for 1399.152.4. Mr. Sanchez asked legal counsel whether there is anything else that needs to be considered. Ms. Pruden discussed removing any specificity to the statute in case it changes in the future. Ms. Cajina pointed out when AB 1535 was enacted, it allowed for the Board to evaluate the practical exam requirement for audiologists when the OA was completed, but it also included language in it that a “determination has been made that a different examination is to be administered.” She asked that the Board include a requirement for an audiological program to provide a safeguard for what a practical exam should be testing for. Ms. Raggio agreed and stated that the written exam might not sufficiently cover regulations and should possibly cover anatomy and physiology of hearing as well. Mr. Sanchez asked for clarification regarding Ms. Cajina’s comment. Ms. Pruden further inquired about the need to include any reference to audiological requirements as the statute refers only to an exam regarding the *selling* of hearing aids. The history of the exam requirements, the spirit of the legislation, and the regulatory requirements was briefly deliberated.

M/S/C Diaz/Solomon-Rice

- **Motion to approve the proposed language, direct the Executive Officer to initiate the rulemaking process, delegate authority to the Executive Officer to make non-substantive changes, and move forward with the 45-day public comment. The motion carried 6-1.**

- b. Supervision of Trainee-Applicants, Supervision and Training Required, and Direct Supervision – Title 16, California Code of Regulations, Sections 1399.116, 1399.118, 1399.119

Ms. Olivares described the changes discussed at the previous Board meeting to the proposed regulations language. She explained that there are some items that still need to be further discussed to develop language for the regulation changes. Mr. Sanchez commented that the changes being discussed today are a result of the HAD Committee meeting in February. Three versions of the proposed changes to 1399.118 and 1399.119 including the different definitions of direct and immediate supervision were presented to the Board for review. Ms. Pruden discussed the letter from HHP and the changes made to the proposed regulatory language based on its recommendations. Ms. Pruden and Ms. Olivares elaborated on the different versions of proposed changes. Patti Solomon-Rice asked whether the definitions for direct and immediate supervision are new definitions, or if they follow similar definitions for a SLPA. The definitions for direct and immediate supervision for SLPAs were discussed and compared.

Ms. Pruden inquired about the new continuing education (CE) requirement for supervisors. Ms. Solomon-Rice explained that the CE requirements for supervisors are specific to supervisors and can be included in the CE requirement to renew a license. The length of renewal cycles for hearing aid dispensers and speech-language pathologists was explained. Mr. Sanchez discussed the concerns regarding a new CE

requirement for supervisors based on a CE course that may not be available yet. Mr. Bartlett commented that to the best of HHP's knowledge, courses for supervisory training do not exist. Ms. Solomon-Rice responded with the fact that once it is a regulatory requirement it could be lucrative to start a supervision CE course. Ms. Georgeson explained that supervising audiologists are required to complete six hours of supervision training before supervising RPEs and three hours every four years after. Ms. Solomon-Rice brought up the fact that the entry-level for an audiologist is very different from the entry-level for a hearing aid dispenser. She asked that this is kept in mind when adding new requirements for hearing aid dispensers to complete. Mr. Sanchez added that the CE requirement for supervisors might be a barrier since there are limited course offerings at the moment and new CE courses would need to be created.

Mr. Sanchez asked HHP to comment on the definitions of supervision for trainee-applicants based on the comments in the letter submitted to the Board. Ms. Pruden clarified that the reason the proposed regulations do not include a tele-supervision option because the Board members had previously stated they did not want this as an option. Mr. Shalev commented on the description for immediate supervision and the need for the supervisor to be physically present. There is a difference between immediate supervision and over-the-shoulder supervision. He stated the lack of supervision for trainee-applicants is a concern. Immediate supervision needs to require the supervisor to be in physically present in the same room. Ms. Olivares provided different versions of direct supervision for the Board members to review. Ms. Pruden referred to the letter from HHP and agreed with the comment regarding the term "services" can be interpreted as many things. The definition should contain specific references to the practice of fitting and selling hearing aids. Ms. Cajina inquired about the option for indirect supervision. The Board members discussed clerical tasks and other tasks that would not require the supervisor's presence.

The question of whether these tasks are included in the practice of fitting and selling hearing aids was raised. Mr. Shalev explained that there are tasks that may fall into the practice of fitting and selling hearing aids that do not require supervision. Mr. Bartlett added that there are tasks including interpreting a hearing test or adjusting a hearing aid that could technically be a part of fitting and selling hearing aids but should be viewed as separately. He further added that the definition of fitting and selling hearing aids is too narrow. Ms. Pruden clarified that post-fitting activities are included within the practice of fitting and selling hearing aids. Mr. Bartlett commented that there are certain tasks that the trainee-applicant should be able to do within the practice of fitting and selling hearing aids, such as replacing tubing or using an otoscope to look for missing pieces, that may pose a risk for the consumer if not addressed immediately. If the trainee-applicant is at the point in his or her training where a supervisor is not needed for these activities, the supervisor should not be required to be physically present. Ms. Cooper stated that otoscopy is different from administrative tasks and can be harmful to the consumer. Mr. Bartlett replied that trainee-applicants would require less and less supervision as they become more skilled, for example, after the first 90 days of training. The length of time for a trainee license was discussed including the ability to renew the trainee license twice for a total of 18 months. Mr. Shalev commented that trainee license should be similar to the temporary license; 12 months as a trainee-applicant is sufficient time to receive training and pass the exams.

Mr. Sanchez detailed the definition of indirect supervision as it applies to a SLPA (CCR 1399.170(e)). He asked if the proposed regulations need to be revised and brought to the next Board meeting for discussion. Ms. Cajina observed that being a trainee and being a trainee's supervisor is completely voluntary and to have people opt-in to on-the-job training program like this is critical. She added that although consumer protection and removing consumer risk due to lack of training is a priority, they do not want to preclude potential supervisors that are hesitant on adopting a training program in their practice with restrictive supervision requirements. HHP is willing to continue collaborating with the Board regarding defining supervision levels.

The argument of whether certain tasks are included in administrative tasks (such as cleaning hearing aids or changing batteries) or if they are included in the practice of fitting and selling hearing aids was deliberated. The option of indirect supervision and the tasks that might fall under the practice of fitting and selling hearing aids but could move to indirect supervision after 90 days was further discussed. Ms. Pruden pointed out that the Board already decided that the task of otoscopic inspection of the ear was one that required immediate supervision at any time the trainee-applicant is providing the service. She provided the Board's definition of the practice of fitting or selling hearing aids (B&P 2538.11(a)). Mr. Diaz expressed concern for not explicitly defining what is not included in the practice of fitting and selling hearing aids. Ms. Pruden explained that it wouldn't be necessary to include a list of clerical tasks as these tasks would not apply to the practice of fitting and selling hearing aids. Mr. Bartlett described scenarios where indirect supervision may be appropriate for a trainee-applicant when the trainee is engaged in the practice of fitting and selling hearing aids (such as the waiting period after taking the practical exam) where the trainee has demonstrated sufficient ability and skill. Mr. Sanchez stated that allowing the supervisor to make the judgment of the type of supervision required by the trainee is what the Board is trying to avoid. Ms. Pruden informed the Board that they had already decided that they do not want a form of indirect or remote supervision option. If the Board members have changed their minds or would like to reconsider, further discussion is warranted. Ms. Solomon-Rice added that the Board is looking to find the "sweet spot" between being too specific and not specific enough with the regulations.

Mr. Sanchez reminded the Board that this is a continued discussion from the previous day on the topic of indirect supervision or those tasks that would not be considered immediate or direct supervision. Mr. Shalev returned to the CE requirement for trainee supervisors and asked if anyone knew whether courses are readily available on the market. Mr. Bartlett explained that International Hearing Society offers courses more related to the federal level which may not be within the scope of training for the state level. Ms. Solomon-Rice responded with the fact that in other professions, once the Board creates a regulation that requires some form of CE, people will start teaching them. Mr. Shalev observed that the hearing aid dispensing population is a different, much smaller population than speech-language pathologists. Ms. Raggio added that audiologists are required to take supervision courses as well. Mr. Sanchez clarified that the supervision courses for audiologists are relevant for supervising required professional experience (RPE) license holders. He elaborated that at any given time, there are only about 200 trainee-applicants, which means that there are at most 200 supervisors (including dispensing audiologists). He understands that the limited availability of CE courses in supervision may be a problem in the future. Mr. Bartlett expressed concern for the CE requirement and changing the supervision levels and explained that it would be a barrier. Ms. Raggio replied that a licensee who is a good professional does not imply the licensee will be a good teacher or supervisor. The CE requirement would allow good professionals to become good supervisors as well. Mr. Shalev inquired whether there are currently any CE courses available for trainee supervisors.

The requirement for length of time licensed of the supervisor was brought up. Currently there is not a requirement for length of time licensed for a hearing aid dispenser to become a trainee supervisor. Ms. Pruden asked the Board members if a requirement should be added and what would the requirement be. Mr. Shalev stated that three years of being licensed, without discipline, and actively practicing before beginning supervision. Ms. Solomon-Rice questioned whether the Board receives requests for waivers to supervise more than one trainee-applicant. Mr. Sanchez explained that the Board has been attempting to address the lack of supervision for trainee-applicants and asked whether the members feel comfortable with the same regulatory exception to the limit of one trainee per supervisor.

Mr. Bartlett believes that a CE course offered on the topic of supervision training would not be considered within the scope of practice for hearing aid dispensers. Ms. Solomon-Rice added that the length of time

the regulatory process takes will allow for a CE course to be developed before it's required. National associations often offer supervisory training courses. Amy White, with California Academy of Audiology (CAA), spoke about her experiences with training courses for audiologists through CAA and how it often leads to more licensees wanting to begin supervising and training others. Mr. Shalev asked about the legality of implementing a regulation requiring a course that is not available. He expressed concern over the Board's inability to make CE providers offer a course on supervision. Mr. Sanchez commented on the rulemaking processing including the economic and fiscal impact. He acknowledged the possibility of a barrier for supervisors finding a course, but he also addressed the barrier regarding supervisors who do not know how to effectively supervise, and their trainees do not pass the practical exam. Ms. Raggio stated that in both the speech-language pathology and audiology professions, before the CE requirements changed to include courses specific to supervision, the courses were not available. The professions had to develop the courses and now the HAD profession will need to develop the courses. She added that the impetus is to improve the quality of the professional. Mr. Sanchez explained that requiring more training for supervisors is to address the issue of allowing individuals without any background or training to begin practicing under supervision. Providing structure to the regulations ensures that the supervisor receives training.

Mr. Shalev opined what began as looking at the regulations due to the concern that trainee-applicants were doing earmold impressions without proper supervision has resulted in developing regulations that will end the entire profession. He believes if a dispenser files suite with the State if the Board because of the regulatory requirement, it will prevail. He asked what the Board's argument would be to require CE courses on supervision. Ms. Raggio replied with quality control. Ms. Solomon-Rice responded with consumer protection. Ms. Raggio added that implementing the requirement means the courses will be developed. Mr. Shalev disagreed and stated that every dispenser is an individual. He questioned whether the individual dispensers should develop the course on supervision. Ms. Raggio said that the professional organizations will put the word out there that this regulation is changing the requirements and it will evolve in the same way that other professions have had to evolve. Mr. Shalev asked if the supervisory course would count toward the CE requirement for renewal. Ms. Pruden clarified that based on previous conversations, the Board had agreed that the course on supervision would be considered a part of the 12-hour CE requirement.

Mr. Sanchez overviewed the CE requirement for RPE and SLPA supervisors. For an RPE supervisor, the requirement is to complete six hours before beginning supervision and three hours every four years thereafter (CCR 1399.153.3(g)). For a SLPA supervisor, the requirement is to complete six hours once supervision begins and three hours every two years thereafter (CCR 1399.170.15(b)(4)). Mr. Shalev inquired about the length of time a licensee is required to maintain records of course completion. A licensee must maintain records of completion for at least two years. Ms. Raggio commented that requiring a trainee supervisor to complete additional CE hours on supervision every year is requiring too much. Ms. Pruden observed that the proposed regulations for the responsibilities of a SLPA supervisor will change the CE requirement to complete the six hours of CE *prior* to supervision and three hours every *four* years thereafter (to match the requirement for RPE supervisors). Mr. Shalev stated that he doesn't think additional supervision training should be required every so many years. The Board members compared the CE requirements for other supervisors licensed by the Board to the proposed requirement for trainee supervisors. A future implementation date of one year after the effective date of the regulation was added. The CE requirement for trainee supervisors was changed to reflect two hours every four years after supervising.

M/S/C Shalev/Raggio

- **Motion to approve the proposed language for Section 1399.116 as amended, direct the Executive Officer to initiate the rulemaking process, delegate authority to the Executive Officer to make non-substantive changes, and move forward with the 45-day public comment. The motion carried 7-0.**

Ms. Pruden reviewed the proposed changes to CCR 1399.118 and explained that many of the changes are technical in nature. She added that HHP had made comments in the letter regarding this section including reference to real ear measurements. Mr. Shalev commented that if the practical exam does not require real ear measurements, it should not be required for training. Ms. Raggio observed that the language specifies training in the “knowledge of” and not the “practice of” real ear measurements. Mr. Bartlett commented that real ear measurements are only one of the many verification techniques. Ms. Raggio clarified regarding the different verification techniques that one is subjective, and one is objective, with real ear measurement being objective. Ms. White added that real ear measurements are considered the “gold standard” for the fitting and verification of hearing aids at the national level. The state of Oregon requires performing a real ear measurement at the time of fitting hearing aids. She elaborated that real ear measurements are crucial to patient safety to prevent over-amplification or causing damage. Ms. Raggio said it’s crucial that dispensers are aware of and know about real ear measurements, but it doesn’t mean they need to change how they practice. Supervisors need to inform their trainees about real ear measurements. It was suggested to change the proposed language to reference “including but not limited to” for real ear measurements. Mr. Bartlett asked that an additional task be added to the section: otoscopic inspection of the ear.

M/S/C Shalev/Raggio

- **Motion to approve the proposed language for Section 1399.118 as amended, direct the Executive Officer to initiate the rulemaking process, delegate authority to the Executive Officer to make non-substantive changes, and move forward with the 45-day public comment. The motion carried 7-0.**

Ms. Pruden overviewed the proposed changes to CCR 1399.119 and reminded the Board that this is a continued conversation from yesterday regarding the supervision requirements for trainees. The “practice of fitting and selling hearing aids” has been added for clarification and to remove confusion over clerical tasks that would not require immediate or direct supervision of the trainee. Ms. Pruden asked whether the Board felt consumer protection would be best served by including a third level of indirect supervision which would not require a physical presence by the supervisor. She clarified that at the previous meeting, the Board members decided they did not want a supervisor to provide supervision to the trainee at a separate location. Mr. Shalev commented that there are tasks such as taking an earmold impression that requires immediate supervision, and some tasks such as changing a battery or a filter that do not require supervision, but there are some tasks such as an air and bone test that might not require immediate supervision after 90 days. The proposed definitions for direct and immediate supervision were discussed. Ms. Pruden pointed out that if the tasks are not within the practice of fitting and selling hearing aids, the tasks do not require supervision. Mr. Bartlett asked about the waiting period for the filing of their license, when a trainee has proven that they meet the qualifications but are waiting for up to two months to receive the full HAD license. Mr. Sanchez explained that there are no provisions for licensure in any category where we change the requirements; an individual is either licensed or not. For example, a student who has graduated, passed any exams, etc. to meet the licensure requirements is still required to get the license. Breanne Humphreys discussed the Board’s performance-based budget results in processing times of within three weeks for applications. She added that in most cases, the practical exam scores are received, the applicants are notified right away, and the applications are processed within a week. Mr. Sanchez

clarified that the processing times for hearing aid dispensing applications is much shorter than for speech-language pathology or audiology applications. Ms. Solomon-Rice mentioned that waiting for the permanent license to be issued does not mean the trainees cannot work; they can continue to work as trainees.

Ms. Pruden asked if there were any comments concerning the proposed changes to CCR 1399.119(d) and the tasks that would require immediate supervision throughout the duration of the trainee's license. Mr. Shalev stated that hearing aid programming and audiometric evaluations should be moved to direct supervision. Ms. Solomon-Rice asked whether the issue of competency could be added. To include language that requires direct supervision for a minimum of 90 days or until the supervisor determines competency. Ms. Raggio asked if there is other language within regulation that states the supervisor has to determine competency and therefore withdraw his or her supervision level. A comparison of the supervision levels for SLPAs was discussed. Mr. Sanchez elaborated on the reasons behind supervision requirements. Mr. Shalev stated trainees should be able to perform hearing tests after 90 days of direct supervision. The supervisor is responsible for any actions by the trainee. Mr. Bartlett recommended otoscopic inspection of the ear could be removed from section (d). Direct supervision could be sufficient for the task of otoscopic inspection. Ms. Raggio inquired about the possibility of requiring the trainee to inform the supervisor with anything abnormal. Mr. Diaz argued that having the supervisor in the room then the trainee is more likely to bring something up if they have any questions.

The difference between otoscopy for audiometric tests and otoscopy for earmold impressions was deliberated. Ms. Raggio opined that 90 days is not long enough; experienced professionals will still encounter unusual circumstances involving otoscopy. The levels of supervision and the scope of practice for audiology aides was discussed. Ms. Cooper explained that she isn't comfortable with otoscopy being removed from immediate supervision. Mr. Bartlett elaborated on the different uses for otoscopy and how the supervisor would be present most of the time (such as when otoscopy is performed before an earmold impression) so it feels redundant to require immediate supervision for the otoscopic inspection of the ear. Mr. Shalev commented that if the Board doesn't remove otoscopic procedure from section (d) the Board is prohibiting trainees from being able to perform hearing tests. Ms. Cooper noted that she has trained AuD students where she has reviewed the case history with the student, looked in the patient's ear, and she is comfortable leaving her students to perform a hearing test without being over the shoulder. However, she clarified that she will be present during inspections of the ear canal to discuss what they see. Mr. Shalev asked if she looks over the shoulder of her students for more than three months. She responded that the students she has supervised often have four years of post-graduate education and training, so the length of time is variable. Mr. Shalev opined that the Board needs to be practical. Ms. Raggio stated that the nature of supervision and training is not always practical. Ms. White illustrated the way she supervises students and trainees in her office. She elucidated that trainees are being hired to work as opposed to being hired to supervise and to train. Training does take a lot of the supervisor's time, but it's important to double check otoscopy and shouldn't be viewed as cumbersome.

Ms. Pruden reported that section (f) will be amended based on HHP's suggestion to clarify that "services" refers to the practice of fitting and selling hearing aids. Additionally, section (i) will be removed because it references that supervision is required for trainees which is redundant because the statute and regulation already provide this requirement. Recommending the addition of 2538.11 to the reference section because it spells out the practice of fitting and selling hearing aids.

M/S/C Shalev/Raggio

- **Motion to approve the proposed language for Section 1399.119 as amended, direct the Executive Officer to initiate the rulemaking process, delegate authority to the Executive Officer to make non-substantive changes, and move forward with the 45-day public comment. The motion carried 7-0.**

Petition Hearings for Reinstatement of Licensure of Other Reduction of Penalty
(Time Certain: November 30, 2018 at 9:00 a.m.)

6. Petition for Penalty Relief - Modification of Probation – David Michael Illich, AU 778

Ed Washington opened the hearing. John Gatschet presented the case to the Board. Mr. Washington swore in David Illich. Mr. Illich presented his case to the Board. Mr. Gatschet cross examined Mr. Illich. Mr. Illich responded to the Board's questions. Mr. Gatschet gave his closing argument. Mr. Illich gave his closing argument.

Closed Session

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

The Board met in closed session at 9:45 a.m.

Case Number 11-2004-59

Return to Open Session

The Board returned to open session at 1:00 p.m.

8. Discussion and Possible Action on Proposed Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists

Ms. Raggio described the potential consumer protection issue regarding locked hearing aids (hearing aids fitted with proprietary software only available at certain outlets) and a lack of access for servicing the hearing aids. She expanded on the potential need for some form of disclosure for the recipients of locked hearing aids to inform the consumer that they are purchasing something that has to be returned to that location or an outlet from that company. Consumers need to be aware of this before they purchase a locked hearing aid. Ms. White discussed her experience with locked hearing aids. She added that consumers are unaware that the locked hearing aids cannot be programmed, adjusted, repaired, etc. by anyone other than the manufacturer. She asked that the Board consider an informed consent statement or other similar option where the consumers acknowledge the limited capabilities for services on the locked hearing aid they are purchasing. Ms. Raggio questioned whether hearing aids purchased online are able to be serviced by anyone or if they are limited as well. Ms. White stated that most hearing aids purchased online or through mail order magazines can only be programmed through the manufacturer. Mr. Shalev stated that if a consumer purchases a hearing aid through a specific retailer, it's practical to require the consumer to return to that office and not a different one for servicing. Mr. Bartlett disagreed by explaining that if another retailer has the software it doesn't matter where the consumer goes. Ms. White elaborated on the fact that locked hearing aids use proprietary software which why the consumer protection issue was raised. Ms. Raggio stated that it appears to be a consumer access issue and informing them would be a good consumer protection activity. The issue of jurisdiction over regulating a manufacturer versus a

licensee within California was deliberated. The Board has authority over the individual who dispenses the hearing aid in California, as well as what information is required on a receipt. Ms. White commented that an informed consent would not restrict a company from doing business in California. Mr. Diaz compared the different ways of providing informed consent to consumers.

Mr. Sanchez stated that the Board has statute and civil code regarding the warranty of a hearing aid and receipt requirements in business and professions code. Mr. Diaz inquired about holding a hearing aid dispenser liable for negligence for not disclosing information. Changing the receipt requirements would require a statutory change. Changing statute would involve working with an author and possibly a professional organization to support the bill. Ms. Cajina stated that at this time, HHP would not be able to sponsor the bill, even though they appreciate the intent and improving consumer awareness. Ms. White stated that CAA would be willing to support the bill. Ms. Raggio believes HLAA would be willing to support the bill as well. Ms. White added that CAA has made statements about locked hearing aids, but they are limited in their ability to take any further action to improve consumer awareness. The Hearing Loss and Hearing Aids – Consumer Facts brochure developed by the Board does not currently include reference to locked hearing aids. Ms. Pruden recommended that a legislative committee can be created for this task and can be done outside of a Board meeting as the Board Chair has authority to create a committee and assign tasks at any time.

9. Executive Officer's Report

November 30, 2018 Reconvene at 9:00 a.m.

Ms. Parker opened with the need for Christy Cooper to be sworn in as the new dispensing audiologist Board member. She led Ms. Cooper in the oath of allegiance.

a. Administration Update

Mr. Sanchez described recent personnel changes within the Board staff. He and Ms. Humphreys have been recruiting for a new Special Investigator and believe they will make the selection within the next week or two. Mr. Sanchez informed the Board about two new staff members, Heather Olivares and Eli Heredia. The difficulties in holding practical exams in southern California was discussed including the fact that the Board does not have special funding for practical exams.

b. Budget Report

Mr. Sanchez provided an overview of the Board's current budget report. He explained that they are currently predicted to have a surplus. Any surplus to the budget is carried over into the Board fund.

c. Licensing Report

Mr. Sanchez updated the Board with number of licenses issued for the first quarter of the fiscal year as well as the licensing population for all license types.

d. Practical Examination Report

Mr. Sanchez discussed the practical examination results for the July 21, 2018 exam. He explained that the results for the October exam have not been received yet.

e. Enforcement Report

Mr. Sanchez briefly reviewed the formal enforcement cases pending with the Office of the Attorney General. He also mentioned the probationers that the Board is currently monitoring. Mr. Sanchez informed the Board that the enforcement cases will be separated further by license type at the end of the fiscal year.

f. Regulation

Mr. Sanchez informed the Board that he would ask Ms. Olivares to provide the Board with a legislation update.

10. Legislation Update, Review, and Possible Action

a. AB 11 (McCarty) Early and Periodic Screening, Diagnosis, and Treatment Program: screening services

Ms. Olivares explained that this bill was vetoed because the Medi-Cal state plan already requires providers to screen children for developmental delays.

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

This bill would allow all healing arts boards and bureaus in California to establish a lower renewal fee for an inactive license. Ms. Olivares pointed out that if the Board has no desire to do so, the bill does not impact the Board.

c. AB 1801 (Nazarian) Newborns: cytomegalovirus public education and testing

Ms. Olivares explained that this bill was vetoed because researching, educating, and testing for diseases in newborns is a function of the Department of Public Health.

d. AB 2138 (Chiu) Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction

This bill impacts the denial of applications, and revocations or suspensions of licensure, with regards to criminal convictions. Ms. Olivares discussed how the Board had taken an opposition to this bill (along with many other boards and bureaus). However, the bill will become law on July 1, 2020. An overview of AB 2138 was provided. Ms. Olivares informed the Board that she and Ms. Pruden attended a meeting with several other boards and bureaus within the Department of Consumer Affairs (DCA) to combine resources since the bill applies to most boards and bureaus within DCA. Because the bill goes into effect on July 1, 2020, the Board will need to have regulations in place before that date. The intent behind the bill was discussed including reformatations regarding prior criminal history and the Little Hoover Commission. Ms. Pruden commented on the significant amount of work involved with this bill including multiple, different regulation packages. She added that because it is mandated, it is priority. Additionally, application forms will need to be updated. Proposed regulation language will be brought to the next Board meeting for review. Mr. Shalev inquired about the seven-year limitation for felony convictions. Ms. Pruden elaborated that the limitation depends on the type of crime defined in Code 1192.7. The application for licensure cannot ask questions that would require an applicant to self-disclose criminal convictions. Fingerprint results should notify the Board if there are any prior convictions. Whether or not renewal forms can ask about criminal convictions is still being researched.

11. Election of Board Officers

Mr. Sanchez described the role of the Board Chair and Vice Chair and the annual requirement to elect the Chair and Vice Chair. He asked the Board members to discuss or nominate members for 2019.

- **The Board voted on the re-election of Ms. Parker to the position of Board Chair and Ms. Raggio to the position of Vice Chair. The motion carried 7-0.**

12. Future Agenda Items and Future Board Meeting Dates

Future agenda items include clinical practicum hours required for AuD applicants, supervision requirements for audiology aides. Additional meeting dates will include August and November next year.

- a. February 7-8, 2019 – Los Angeles
- b. May 2-3, 2019 – Sacramento

13. Pursuant to Government Code Section 11123(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.

Case Number 1C-2007-99

Case Number 1I-2017-112

Closed Session

14. Pursuant to Government Code Section 11126(a)(1), the Board Will Meet in Closed Session for the Executive Officer's Evaluation

The Board went into closed session at 3:49 p.m.

Return to Open Session

15. Adjournment

The meeting adjourned after returning to open session.



MEMORANDUM

DATE	April 3, 2019
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Discussion and Possible Action Regarding AB 2138 Regulations

BACKGROUND

Assembly Bill (AB) 2138 (Chiu) was signed by Governor Brown on September 30, 2018 and will become operative on July 1, 2020. This legislation amends various provisions of the Business and Professions Code relating to a board's ability to deny a license based on a criminal conviction(s) and revises requirements related to the criteria of rehabilitation that boards must consider when evaluating the denial of an application, discipline of a licensee, a petition for reinstatement, or a petition for early termination of probation. The Legislature's intent in enacting AB 2138 was "to reduce licensing and employment barriers for people who are rehabilitated." A copy of the legislation is included in your packet.

Existing law (Business and Professions Code Section 480) presently authorizes the Board to deny an application for licensure based on a conviction for a crime or act substantially related to the licensed business or profession. Likewise, Section 490 authorizes the Board to suspend or revoke a license on the basis that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession.

Additionally, Section 482 required the Board to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering denying or disciplining a license based on a conviction, and to consider evidence of rehabilitation in making such decisions. The Board could not deny an applicant a license based solely on a misdemeanor conviction, if the applicant met the applicable requirements of the criteria of rehabilitation that the Board developed.

AB 2138 amended Section 480 to restrict the Board's ability to use prior convictions or acts when denying licenses. Beginning July 1, 2020, the Board may not deny a license to an applicant because the applicant was convicted of a crime, or due to acts underlying the conviction, if the applicant has a certificate of rehabilitation, was granted clemency, made a showing of rehabilitation based on the criteria established pursuant to Section 482, or the conviction was dismissed or expunged.

DISCUSSION

AB 2138 will permit the Board to deny a license when an applicant has been convicted of a crime or formally disciplined by a licensing board in another state, if the crime or professional misconduct is substantially related to the qualifications, functions, or duties of the profession and one of the following conditions exists:

- The conviction or discipline occurred within the seven years preceding the application date. This does not apply if the applicant was ever convicted of:
 - A serious felony under Penal Code Section 1192.7
 - A registerable offense under Penal Code Section 290
- The applicant is presently incarcerated for the crime
- The applicant was released from incarceration for the crime within the seven years preceding the application date.

AB 2138 also specified three criteria that the Board must consider when evaluating whether a crime is substantially related to the profession. The criteria shall include all of the following:

- The nature and gravity of the offense,
- The number of years elapsed since the date of the offense, and
- The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

Additionally, AB 2138 will require the Board to decide whether an applicant or licensee has demonstrated rehabilitation and the license should be granted if:

- The applicant or licensee completed the applicable criminal sentence without a violation of parole or probation, or
- The Board finds, after applying its rehabilitation criteria, that the applicant is rehabilitated.

ACTION REQUESTED

Included in your materials are revisions to California Code of Regulations (CCR) Sections 1399.132, 1399.133, 1399.134, 1399.156.1, 1399.156.2, 1399.156.3, and 1399.170.19. It is imperative that the Board review and approve regulatory language that implements AB 2138. Please review the regulatory proposals and be prepared with comments and changes to the draft regulations. To have the regulations in place by the July 1, 2020 operative date of the legislation, the Board needs to adopt regulatory language prior to April 30, 2019 to meet the expedited regulations review process proposed by the Department of Consumer Affairs.

The proposed regulatory language provides two options for the Board to review.

Option 1 provides a list of specific crimes that the Board determined are substantially related to the profession. However, if the Board subsequently determines a crime that isn't listed is substantially related to the profession, it may be difficult to prove substantial relationship if the case goes to litigation. Option 1 also allows the Board to consider on a case-by-case basis whether successful completion of parole or probation sufficiently demonstrates rehabilitation.

Option 2 does not provide a list of specific crimes that the Board determined are substantially related to the profession, and rather leaves discretion to the Board to determine on a case-by-case basis. However, this option may result in additional litigation to determine whether a crime is substantially related to the profession. Option 2 also requires the Board to find that there has been rehabilitation if the applicant or licensee completed the criminal sentence without a parole or probation violation.

RECOMMENDATION

Staff recommends the Board move to adopt the language provided in Option 1 for the Substantial Relationship Criteria, Rehabilitation Criteria for Denials and Reinstatements, and Rehabilitation Criteria for Suspensions and Revocations. Staff also recommends that after the Board approves the regulatory language, that the Board move to start the formal rulemaking process and delegate authority to the Executive Officer to make non-substantive changes and changes consistent with the enumerated policies of the Board in the rulemaking file.

**AB 2138 Regulations
Option 1**

**CCR Title 16, Division 13.3, Section 1399.132
§ 1399.132. Substantial Relationship Criteria.**

(a) For the purpose of denial, suspension, or revocation of a hearing aid dispenser's license or registration pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions, and duties of a hearing aid dispenser if to a substantial degree it evidences present or potential unfitness of a hearing aid dispenser licensee or registrant to perform the functions authorized by his the license or registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to those involving the following:

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a licensee.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(a) (1) Any violation or attempt to violate of the provisions of Sections 650, 651, 651.3 and 655.2 of the Code.

(b) (2) Any violation or attempt to violate of the provisions of Chapter 7.5, Division 2 of the Business and Professions Code.

(3) Conviction or act involving fiscal or commercial dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.

(4) Conviction or act involving grand theft or embezzlement.

(5) Conviction or act involving child abuse.

(6) Conviction or act regarding elder abuse.

(7) A conviction requiring a person to register as a sex offender pursuant to Section 290 of the Penal Code.

(8) Conviction or act involving lewd conduct or sexual impropriety.

(9) Conviction or act involving assault, battery, or other violence.

**AB 2138 Regulations
Option 1**

(10) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.

Note: Authority cited: Sections 493 and 2531.06, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.3, Section 1399.133
§ 1399.133. Criteria for Rehabilitation - Denials and Reinstatements.**

(a) When considering the denial of a license or a temporary license under Section 480 of the Business and Professions Code, or the reinstatement of a license, on the ground that the applicant was convicted of a crime, the Board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria: the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for licensing, shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating an applicant's rehabilitation. The Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Board finds that the applicant is rehabilitated:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

**AB 2138 Regulations
Option 1**

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(5) (6) Evidence, if any, of rehabilitation submitted by the applicant.~~

Note: Authority cited: Sections 482 and 2531.06, Business and Professions Code.
Reference: Sections 480, 481, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.3, Section 1399.134
§ 1399.134. Criteria for Rehabilitation - Suspensions and Revocations.**

(a) When considering the suspension or revocation of a license or a temporary license on the grounds that the licensee has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria: the Board, in evaluating the rehabilitation of such person and his present eligibility for a license or temporary license, will consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating a licensee's rehabilitation. The Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the Board finds that the licensee is rehabilitated:

(1) The Nature and severity of the act(s) or offense(s) crime(s).

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Option 1**

(2) The ~~total~~ criminal record.

(3) Extent of The time that has elapsed since commission of the act(s) or ~~offense(s)~~ crime(s).

(4) Whether the licensee has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(5)~~ (6) If applicable, evidence of ~~expungement~~ dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(6)~~ (7) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 141, 480, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.4, Section 1399.156.1
§ 1399.156.1. Substantial Relationship Criteria.**

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions eCode, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a person holding a license under the Act if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the function authorized by his or her license or registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a licensee.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

~~(a)~~ (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Act.

**AB 2138 Regulations
Option 1**

(b) (2) Conviction of a crime involving fiscal or commercial dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.

(3) Conviction or act involving grand theft or embezzlement.

(4) Conviction or act involving child abuse.

(5) Conviction or act regarding elder abuse.

(6) A conviction requiring a person to register as a sex offender pursuant to Section 290 of the Penal Code.

(7) Conviction or act involving lewd conduct or sexual impropriety.

(8) Conviction or act involving assault, battery, or other violence.

(9) Conviction or act involving the use of drugs or alcohol to an extent or in a manner dangerous to the individual or the public.

Note: Authority cited: Sections 481, 493, and 2531.95, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.4, Section 1399.156.2
§ 1399.156.2. Rehabilitation Criteria for Denial and Reinstatement.**

(a) When considering the denial of a license or registration under Section 480 of the Business and Professions Code, or a petition for reinstatement under Section 11522 of the Government Code, on the ground that the applicant was convicted of a crime, the Board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria: ~~the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria:~~

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

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Option 1**

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating an applicant's rehabilitation. The Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Board finds that the applicant is rehabilitated:

~~(a)~~ (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

~~(b)~~ (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

~~(c)~~ (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

~~(d)~~ (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)~~ (6) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482 and 2531.95, Business and Professions Code.
Reference: Sections 480, 481, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

CCR Title 16, Division 13.4, Section 1399.156.3

§ 1399.156.3. Rehabilitation Criteria for Suspensions or Revocations.

(a) When considering the suspension or revocation of a license on the grounds that a person holding a license or registration under the Act has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria: ~~the Board, in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:~~

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

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(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the Board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the Board shall apply the following criteria in evaluating a licensee's rehabilitation. The Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the Board finds that the licensee is rehabilitated:

~~(a)~~ (1) The Nature and severity of the act(s) or offense(s) crime(s).

~~(b)~~ (2) The Total criminal record.

~~(c)~~ (3) The time that has elapsed since commission of the act(s) or offense(s) crime(s).

~~(d)~~ (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)~~ (6) If applicable, evidence of expungement dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(f)~~ (7) Evidence, if any, of rehabilitation submitted by licensee, certificate or permit holder.

Note: Authority cited: Sections 482 and 2531.95, Business and Professions Code.
Reference: Sections 141, 480, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

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**CCR Title 16, Division 13.3, Section 1399.132
§ 1399.132. Substantial Relationship Criteria.**

~~(a) For the purpose of denial, suspension, or revocation of a hearing aid dispenser's license or registration pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions, and duties of a hearing aid dispenser if to a substantial degree it evidences present or potential unfitness of a hearing aid dispenser licensee or registrant to perform the functions authorized by his the license in a manner consistent with the public health, safety, or welfare. ~~Such crimes or acts shall include, but not be limited to those involving the following:~~~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a licensee.

~~(a) Any violation of the provisions of Sections 650, 651, 651.3 and 655.2 of the Code.~~

~~(b) Any violation of the provisions of Chapter 7.5, Division 2 of the Business and Professions Code.~~

Note: Authority cited: Sections 493 and 2531.06, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.3, Section 1399.133
§ 1399.133. Criteria for Rehabilitation - Denials and Reinstatements.**

~~(a) When considering the denial of a license or a temporary license under Section 480 of the Business and Professions Code, or the reinstatement of a license, on the ground that the applicant was convicted of a crime, the Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for licensing, ~~shall consider the following criteria:~~~~

(b) If subdivision (a) is inapplicable, the Board shall apply the following criteria in evaluating an applicant's rehabilitation. The Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Board finds that the applicant is rehabilitated:

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(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) or crimes(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482 and 2531.06, Business and Professions Code.
Reference: Sections 480, 481, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.3, Section 1399.134
§ 1399.134. Criteria for Rehabilitation - Suspensions and Revocations.**

(a) When considering the suspension or revocation of a license or a temporary license on the grounds that the licensee has been convicted of a crime, the Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. the Board, in evaluating the rehabilitation of such person and his present eligibility for a license or temporary license, will consider the following criteria:

(b) If subdivision (a) is inapplicable, the Board shall apply the following criteria in evaluating a licensee's rehabilitation. The Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the Board finds that the licensee is rehabilitated:

(1) Nature and severity of the act(s) or ~~offense(s)~~crime(s).

(2) Total criminal record.

(3) Extent of time that has elapsed since commission of the act(s) or ~~offense(s)~~crime(s).

(4) Whether the licensee has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

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(6) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 141, 480, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.4, Section 1399.156.1
§ 1399.156.1. Substantial Relationship Criteria.**

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a person holding a license under the Act if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the function authorized by his or her license or registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a licensee.

~~(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Act.~~

~~(b) Conviction of a crime involving fiscal dishonesty.~~

Note: Authority cited: Sections 481, 493, and 2531.95, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.4, Section 1399.156.2
§ 1399.156.2. Rehabilitation Criteria for Denial and Reinstatement.**

(a) When considering the denial of a license or registration under Section 480 of the Business and Professions Code, or a petition for reinstatement under Section 11522 of the Government Code, on the ground that the applicant was convicted of a crime, the Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. the Board, in evaluating the rehabilitation of the

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applicant and his or her present eligibility for a license, will consider the following criteria:

(b) If subdivision (a) is inapplicable, the Board shall apply the following criteria in evaluating an applicant's rehabilitation. The Board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the Board finds that the applicant is rehabilitated:

~~(a)~~ (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

~~(b)~~ (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

~~(c)~~ (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

~~(d)~~ (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

~~(e)~~ (5) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482 and 2531.95, Business and Professions Code.
Reference: Sections 480, 481, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.

**CCR Title 16, Division 13.4, Section 1399.156.3
§ 1399.156.3. Rehabilitation Criteria for Suspensions or Revocations.**

(a) When considering the suspension or revocation of a license on the grounds that a person holding a license or registration under the Act has been convicted of a crime, the Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. the Board, in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:

(b) If subdivision (a) is inapplicable, the Board shall apply the following criteria in evaluating a licensee's rehabilitation. The Board shall find that the licensee made a showing of rehabilitation and is presently fit for a license if, after considering the following criteria, the Board finds that the applicant is rehabilitated:

~~(a)~~ (1) Nature and severity of the act(s) or ~~offense(s)~~crime(s).

~~(b)~~ (2) Total criminal record.

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~~(e)~~ (3) The time that has elapsed since commission of the act(s) or ~~offense(s)~~crime(s).

~~(d)~~ (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

~~(e)~~ (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

~~(f)~~ (6) Evidence, if any, of rehabilitation submitted by licensee, certificate or permit holder.

Note: Authority cited: Sections 482 and 2531.95, Business and Professions Code.
Reference: Sections 141, 480, 482, 488, 493, 2533 and 2533.1, Business and Professions Code.



MEMORANDUM

DATE	April 3, 2019
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Discussion and Possible Action regarding RPE Direct Monitoring Requirements and Remote or Tele Supervision

BACKGROUND

At the June 1, 2018 meeting, the Board discussed letters received from stakeholders of the SLP profession in support of remote/tele supervision for required professional experience (RPE) temporary license holders. The Board agreed that the monitoring requirements needed to be clarified and requirements developed to allow for tele supervision of RPEs.

At the August 8-10, 2018 meeting, the Board reviewed and approved regulatory language. However, the language was approved without a definition for direct supervision and tele supervision. Additionally, other changes are necessary to improve the readability of the tele supervision requirements.

ACTION REQUESTED

Included in your materials are revisions to California Code of Regulations (CCR) Sections 1399.153 and 1399.153.3. Please review the draft regulatory proposal and be prepared to discuss any changes or revisions. Staff recommend that the Board approves the regulatory language with any necessary changes, moves to start the formal rulemaking process, and delegates authority to the Executive Officer to make non-substantive changes in the rulemaking file.

**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 of Article 4 of Division 13.4 of Title 16 as follows:

1399.153 Definitions.

As used in this article, the term:

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

(b) "Required professional experience supervisor" or "RPE supervisor" means a person who is licensed as a speech-language pathologist or audiologist in the field for which licensure is sought, or has qualifications deemed equivalent by the Board. "Qualifications deemed equivalent by the Board" include a supervisor who holds legal authorization to practice in the state where the experience is being obtained in the field for which licensure is sought if the required professional experience is obtained in a setting which is exempt from the licensure requirements of the Act or out of state.

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

(d) "Direct supervision" means in person, real-time, personal observation, and guidance by the RPE supervisor of activities related to the field for which licensure is sought performed by the RPE temporary license holder.

(e) "Tele supervision" means real-time, personal observation, and guidance through electronic means by the RPE supervisor of activities related to the field for which licensure is sought performed by the RPE temporary license holder.

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

Amend Section 1399.153.3 of Article 46 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 patient/client about the use of tele supervision and obtains verbal or written consent from the patient/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 when providing tele supervision as when providing any other mode of supervision.

(D) ~~If it is determined by the RPE supervisor evaluates that the functions to be performed by the RPE temporary license holder while tele supervision will occur, and based on the RPE supervisor's professional judgement of the individual RPE temporary license holder's ability, the RPE supervisor determines that there is no need to be can be is able to performed those functions without the need to be physically present with than they may tele supervise. If the RPE supervisor determines that the functions to be performed by the RPE temporary license holder for this direct supervision. cannot be performed while being tele supervised than the RPE temporary license holder shall not perform those functions.~~

(E) ~~If the RPE supervisor evaluates determines that the functions that the RPE supervisor may need to demonstrate while to be demonstrated by the supervisor cannot be properly be demonstrated via tele supervision will occur, and based on the RPE supervisor's professional judgement of the individual than tele supervision is not appropriate and the RPE temporary license holder's ability, shall not perform the functions that need to be demonstrated by the RPE supervisor determines that there is~~

no need to be physically present with the RPE temporary license holder for this direct supervision.

(F) The RPE temporary license holder is physically present with the patient while being tele supervised by the RPE supervisor.

(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

DATE	April 4, 2019
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Executive Officer Report

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

Administration/Personnel/Staffing

During the month of March 2019, the Board hired Cathy Cummings as an Office Technician. Cathy will assist the Board office with reception duties including the intake of licensing and examination applications. Cathy has extensive administrative and technical support experience working with the Federal government. Most recently she worked with the Department of Veteran Affairs as a Medical Support Analyst.

The Board is in the process of recruiting one licensing analyst. Interviews were held in March 2019 and we anticipate that the position will be filled by the end of April.

Budget

Included in your Board materials is the most recent Expenditure and Revenue Projection Reports. These reports reflect fiscal activity through March 20, 2019. The Expenditure report shows that the Board is on track to spend well below its appropriated budget with a potential reversion of up to 17 percent of its budget. Revenue is slightly above last year's levels and is on target with the Board's estimates.

Licensing/Exams/Enforcement

Licensing Cycle Times – The chart below provides a snapshot the Board's licensing cycle times for the current and past four quarters. As we prepare for our peak licensing period, licensing staff have been focused on making improvements to licensing information,

Executive Officer Report

April 4, 2019

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checklists on the Board’s website. Staff is currently meeting or exceeding its performance goals in licensing for the 2018-19 fiscal year.

Licensing Cycle Times	3/1/18	5/1/18	8/1/18	11/1/18	3/1/19
SLP and Audiologists Complete Licensing Applications	1 week	1 week	2 weeks	3 weeks	1 week
Review and Process SLP and Audiologist Supporting Licensing Documents	1 week	1 week	1 week	1 weeks	1 week
Review and Process RPE Applicant’s Verification Forms for Full Licensure	2 weeks	1 week	1 week	2 weeks	1 week
Hearing Aid Dispensers Applications	Current	Current	Current	Current	Current

Online License Renewal (OLR) – The Board’s OLR project is almost complete. Board staff have been working with DCA Office of Information Services (OIS) on a web portal that allows for all license types to renew online with a credit or debit card. OIS is currently in the final testing phase and the target date for rollout is April 30, 2019. The Board office plans to announce OLR to stakeholders and professional organizations once the project is complete. We will also include a notice with license renewal notifications. Access to the OLR portal will be through the Board’s website.

Practical Examination – Included in your Board materials is a summary of the results of the Hearing Aid Dispensers Practical Examination held on October 13, 2018 and January 26, 2019. Below are the upcoming Practical Examination and Filing Dates:

Date of Exam:	Location:	Filing Periods:
April 6, 2019	Sacramento	February 14, 2019 to March 7, 2019
July 27, 2019	Sacramento	June 6, 2019 to June 27, 2019
November 16, 2019	Sacramento	September 26, 2019 to October 17, 2019

Enforcement – The Board is receiving an average number of complaints. Investigations have been slowed down due to staff turnover and training. There are currently 10 formal discipline cases pending with the Attorney General’s Office. The Board is currently monitoring 35 probationers of which 8 probationers require drug or alcohol testing and 10 are in a tolled status.

Executive Officer Report

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The following disciplinary actions have been adopted by the Board during the past 12 months:

Name	License No.	License Type	Case No.	Effective Date	Action Taken
Hernandez, Rachel V.	SP 24843	Speech-Language Pathologist	1I-2018-013	March 20, 2019	Revocation Stayed, five years probation with specified terms and conditions.
Hunter-Glover, Regina	SPA 5388	Speech-Language Pathology Assistant	1I-2017-112	February 1, 2019	Revocation stayed, five years probation with specified terms and conditions.
Vega, Paige Roschelle	SP 21885	Speech-Language Pathologist	D1-2014-070	September 10, 2018	Probation extended six months and ordered to pay prosecution costs.
Swanson, Robin	HA 3104	Hearing Aid Dispenser	D1-2012-98	September 13, 2018	Revocation stayed, actual suspension, four years probation with specified terms and conditions.
Krone, Elizabeth	HA 2662	Hearing Aid Dispenser	D1-2012-85	August 20, 2018	Revocation.
Geraci-Staub, Julianne	HA 7587	Hearing Aid Dispenser	1C 2015 006	July 18, 2018	Revocation stayed, three years probation with specified terms and conditions.
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.

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board - 0376

FY 2018-19 BUDGET REPORT

Based on 3/20 Activity Log

OBJECT DESCRIPTION	FY 2017-18		FY 2018-19				
	ACTUAL	PRIOR YEAR	CY REVISED	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (Prelim FM12)	EXPENDITURES (MONTH 8)	BUDGET 2018-19	EXPENDITURES (3/20 Activity Log)			
PERSONNEL SERVICES							
Salary & Wages (Staff)	478,930	310,114	619,000	316,557	51%	487,000	132,000
Temp Help	7,841	8,659	1,000	118	12%	1,000	0
Statutory Exempt (EO)	91,296	60,864	82,000	63,296	77%	95,000	(13,000)
Board Member Per Diem	3,900	2,500	6,000	2,700	0%	4,000	2,000
Overtime/Flex Elect	51,849	32,125	5,000	24,670	493%	52,000	(47,000)
Staff Benefits	273,527	186,258	382,000	205,892	54%	316,000	66,000
TOTALS, PERSONNEL SVC	907,343	600,520	1,095,000	613,233	56%	955,000	140,000
OPERATING EXPENSE AND EQUIPMENT							
General Expense	35,746	20,296	74,000	23,489	32%	40,000	34,000
Printing	6,323	1,842	25,000	429	2%	7,000	18,000
Communication	5,668	3,513	20,000	4,089	20%	6,000	14,000
Postage	21,482	2,120	24,000	255	1%	22,000	2,000
Insurance	2,831	0	0	0	0%	3,000	(3,000)
Travel In State	14,266	12,060	24,000	3,011	13%	15,000	9,000
Travel, Out-of-State	0	0	0	0	0%	0	0
Training	0	0	9,000	0	0%	0	9,000
Facilities Operations	170,636	43,480	142,000	65,577	46%	95,000	47,000
C & P Services - Interdept.	178,294	77,300	143,000	63,736	45%	120,000	23,000
C & P Services - External	73,820	41,435	78,000	57,825	74%	72,000	6,000
DCA Pro Rata	339,000	252,063	392,000	261,333	67%	392,000	0
DOI - Investigations	153,000	76,500	200,000	133,333	67%	200,000	0
Interagency Services	0	0	29,000	298	1%	1,000	28,000
IA w/ OPES	3,615	0	60,000	498	1%	4,000	56,000
Consolidated Data Center	3,258	166	10,000	128	1%	3,000	7,000
Information Technology	1,240	1,240	17,000	2,013	12%	5,000	12,000
Equipment	3,220	2,444	17,000	0	0%	17,000	0
TOTALS, OE&E	1,012,399	534,459	1,264,000	616,015	49%	1,002,000	262,000
TOTAL EXPENSE	1,919,742	1,134,979	2,359,000	1,229,248	52%	1,957,000	402,000
Sched. Reimb. - Fingerprints	(36,995)	(22,489)	(31,000)	(22,625)	73%	(31,000)	0
Sched. Reimb. - Other	(5,640)	(490)	(2,000)	(15,090)	755%	(2,000)	0
Unsched. Reimb. - Other	(40,164)	(30,679)	0	0	0%	0	
NET APPROPRIATION	1,836,943	1,081,321	2,326,000	1,191,533	51%	1,924,000	402,000
SURPLUS/(DEFICIT):							17.3%

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board - 0376

FY 2018-19 REVENUE REPORT

Based on 3/20 Activity Log

OBJECT DESCRIPTION	FY 2017-18		FY 2018-19				
	ACTUAL	PRIOR YEAR	CY PROJECTED	CURRENT YEAR	PERCENT	PROJECTIONS	UNCOLLECTED
	REVENUE (Prelim FM12)	REVENUE (MONTH 8)	REVENUE 2018-19	REVENUE (3/20 Activity Log)			
Delinquent Fees	22,475	14,775	22,000	15,075	69%	23,000	(1,000)
Renewal Fees	1,593,906	980,912	1,591,000	992,635	62%	1,600,000	(9,000)
Other Regulatory Fees	64,617	47,749	64,000	17,185	27%	26,000	38,000
Initial Licensing Fees	482,288	276,874	484,000	251,112	52%	480,000	4,000
Income from Surplus Money Investments	20,891	12,584	23,000	0	0%	21,000	2,000
Revenue from Cancelled Warrants	1,412	1,143	8,000	2,237	28%	4,000	4,000
Muscellaneous Revenue	3,576	2,576	0	111	0%	1,000	(1,000)
TOTALS	2,189,165	1,336,613	2,192,000	1,278,355	58%	2,155,000	37,000

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

LICENSES ISSUED	FY13/14	FY14/15	FY15/16	FY16/17	FY17/18	FY 18/19
						QTR 1-3
AU	57	89	48	53	77	45
DAU	UA	UA	26	24	30	27
AUT	0	0	0	0	2	4
SLP	974	1143	1352	1457	1482	1038
SPT	0	0	0	0	0	0
SLPA	325	550	606	501	558	492
RPE	702	836	834	897	945	852
AIDE	40	48	44	44	33	28
CPD	15	17	22	21	20	15
HAD Permanent	49	92	140	120	137	94
HAD Trainee	139	145	180	152	169	114
HAD Licensed in Another State	5	9	16	16	20	12
HAD Branch	282	426	407	315	341	216
TOTAL LICENSES ISSUED	2588	3355	3675	3600	3814	2937

LICENSEE POPULATION	FY13/14	FY14/15	FY15/16	FY16/17	FY17/18	FY 18/19
				*	*	*QTR 1-3
AU	584	612	556	698	720	819
DAU	971	988	1,045	1,211	1,246	1,319
<i>Both License Types</i>	<i>1,555</i>	<i>1,600</i>	<i>1,601</i>	<i>1,909</i>	<i>1,966</i>	<i>2,138</i>
AUT	0	0	0	0	0	0
SLP	13,285	13,967	14,860	18,024	19,161	21,007
SPT	0	0	0	0	0	0
SLPA	1,969	2,343	2,795	3,752	4,118	4,785
RPE	768	802	806	1,174	1,232	1,536
AIDE	119	124	133	235	216	246
HAD	913	948	996	1,179	1,266	1,351
HAD Trainees	145	160	158	238	204	214
HAD Licensed in Another State	8	7	18	18	28	32
HAD Branch Office	710	821	963	1,409	1,297	1,292
TOTAL LICENSEES	19,472	20,772	22,330	27,938	29,488	32,601

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

January 26, 2019 Hearing Aid Dispensers Practical Examination

Candidate Type	Number of Candidates	Passed	%	Failed	%
Applicants with Supervision (Temporary License)					
HA	15	14	93	1	7
AU	5	4	80	1	20
RPE					
Aide					
Applicants Licensed in Another State (Temporary License)					
HA	1	1	100		
AU	2	1	50	1	50
Applicants without Supervision					
HA	25	25	100		
AU	7	5	71	2	29
RPE					
		Passed	%	Failed	%
Total Number of Candidates	55	50	91	5	9

October 13, 2018 Hearing Aid Dispensers Practical Examination

Candidate Type	Number of Candidates	Passed	%	Failed	%
Applicants with Supervision (Temporary License)					
HA	22	17	77	5	23
AU	2	2	100		
RPE					
Aide					
Applicants Licensed in Another State (Temporary License)					
HA	2	1	50	1	50
AU	4	4	100		
Applicants without Supervision					
HA	8	5	63	3	37
AU	6	4	67	2	33
RPE	3	2	67	1	33
		Passed	%	Failed	%
Total Number of Candidates	47	35	74	12	26

ENFORCEMENT REPORT

	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
COMPLAINTS AND CONVICTIONS	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Complaints Received	74	43	75	59	154	157	49	46
Convictions Received	27	58	15	84	24	101	24	66
Average Days to Intake	2	2	3	2	2	2	1	3
Closed	109	130	76	124	121	214	38	83
Pending	46	31	56	51	117	100	155	132

	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
INVESTIGATIONS Desk	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	101	101	90	143	178	257	64	113
Closed	107	124	71	118	113	205	33	79
Average Days to Complete	107	138	132	91	201	73	155	157
Pending	42	30	45	39	104	89	136	117

	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
INVESTIGATIONS DOI	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	0	2	11	9	10	7	2	8
Closed	2	6	5	6	8	9	5	4
Average Days to Complete	392	382	148	709	442	497	734	766
Pending	4	1	11	12	13	10	10	14

	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
ALL TYPES OF INVESTIGATIONS	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Closed Without Discipline	93	112	69	111	116	197	36	80
Cycle Time - No Discipline	74	115	125	69	210	73	230	174

	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
CITATIONS/Cease&Desist	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Issued	4	5	8	8	9	12	2	11
Avg Days to Complete Cite	195	305	98	44	7	169	38	162
Cease & Desist Letter	0	1	1	1	2	1	1	0

Speech-Language Pathology Audiology Hearing Aid Dispensers Board

ATTORNEY GENERAL CASES	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Pending at the AG	18	16	8	6	7	11	7	12
Accusations Filed	8	19	2	3	3	2	0	3
SOI Filed	2	2	0	0	1	1	1	1
Acc Withdrawn, Dismissed, Declined	1	0	2	1	2	1	0	1
SOI Withdrawn, Dismissed, Declined	0	0	1	1	0	0	0	0
Average Days to Discipline	888	507	1260	979	780	723	1292	174

ATTORNEY GENERAL FINAL OUTCOME	FISCAL YEAR 2015 - 2016		FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		Quarter 1-3 2018 - 2019	
	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Probation	1	5	6	7	2	1	1	0
Surrender of License	1	1	3	1	1	2	0	0
License Denied (SOI)	0	0	0	0	0	0	0	0
Suspension & Probation	0	1	0	0	0	0	0	0
Revocation-No Stay of Order	1	2	0	2	1	0	0	0
Public Reprimand/Reproval	0	0	0	0	0	1	0	0



MEMORANDUM

DATE	April 2, 2019
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Legislation Update

The following summary on legislation is provided for your information. In addition to the legislative bills specifically related to the Board, this update includes bills that impact all Department of Consumer Affairs (DCA) boards and bureaus and/or all healing arts boards.

AB 193 (Patterson) Professions and vocations

Sponsor: Author

Location: Assembly Business and Professions Committee

Status: Not Set for Hearing

Summary: This bill would require boards to submit an assessment to DCA every two years on the progress in implementing policies to facilitate licensure portability for active duty service members, veterans, and military spouses. This bill would also require DCA to conduct a review of all licensing requirements for each profession and identify unnecessary licensing requirements.

Staff Recommendation: The Board does not have a large population of active duty service members, veterans, and military spouses; however, the Board does give priority to the few applications it receives each year from military personnel. The workload to complete the assessment required by this bill would be absorbable. The Board may also be interested in the outcome of DCA's review of all licensing requirements for each profession, as any recommendations made by DCA may be further addressed by the Legislature in subsequent years. Staff recommends the Board "Watch" the bill.

AB 312 (Cooley) State government: administrative regulations: review

Sponsor: Author

Location: Assembly Appropriations Committee

Status: Set Hearing for April 3, 2019

Summary: This bill would require all state entities to review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, and revise those regulations by January 1, 2022.

Staff Recommendation: Staff provided the DCA Budgets Office with the need for one associate governmental program analyst limited-term position to implement this bill, which will be communicated to the Legislature. Staff recommends the Board “Watch” the bill at this time.

AB 476 (Blanca Rubio) Department of Consumer Affairs: task force: foreign-trained professionals

Sponsor: Coalition for Humane Immigrant Rights

Location: Assembly Appropriations Committee

Status: Set for Hearing April 3, 2019

Summary: This bill would require DCA to create a task force to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals, with the goal of integrating foreign-trained professionals into the state’s workforce.

Staff Recommendation: This bill would not directly impact the Board. However, the Board may be interested in the outcome of the task force’s study, as any recommendations made by the task force may be further addressed by the Legislature in subsequent years. Staff recommends the Board “Watch” the bill.

AB 544 (Brough) Professions and vocations: inactive license fees and accrued and unpaid renewal fees

Sponsor: Author

Location: Assembly Business and Professions Committee

Status: Not Set for Hearing

Summary: This bill would limit the maximum renewal fee for an inactive license to no more than 50 percent of the renewal fee for an active license. This bill would also prohibit boards from requiring payment of accrued and unpaid renewal fees as a condition of reinstating an expired license.

Staff Recommendation: This bill could increase the Board’s workload to process delinquent licenses while potentially not allowing the Board to collect full license renewal fees. This bill may also result in a loss of revenue for the Board. Staff recommends the Board “Oppose” the bill.

AB 598 (Bloom) Hearing aids: minors

Sponsor: Author

Location: Assembly Health Committee

Status: Set for Hearing April 23, 2019

Summary: This bill would require health plans and health insurance policies to include coverage for hearing aids every five years for all enrollees under 18 years of age when medically necessary.

Staff Recommendation: Although this bill would not directly impact the Board, Staff recommends the Board “Support” the bill to help ensure children diagnosed with hearing

loss are able to receive necessary medical devices to improve their hearing. This bill is supported by the California Academy of Audiology and California Speech and Hearing Association, among others.

AB 613 (Low) Professions and vocations: regulatory fees

Sponsor: Author

Location: Assembly Business and Professions Committee

Status: Set for Hearing April 2, 2019

Summary: This bill would authorize all DCA boards to increase licensing fees once every four years based on the California Consumer Price Index for the preceding four years.

Staff Recommendation: This bill would provide the Board with an alternate method to increase fees without going through the lengthy legislative and regulatory process. Staff recommends the Board "Support" the bill.

AB 780 (Brough) Hearing aid dispensers: apprentice license

Sponsor: Hearing Healthcare Providers of California

Location: Assembly Business and Professions Committee

Status: Not Set for Hearing

Summary: This bill would create a new license type, the apprentice hearing aid dispenser license, which would be valid for 18 months while the licensee completes a training program under the supervision for an apprentice sponsor. This bill would allow an apprentice sponsor to supervise up to three apprentices at a time. This bill would also expand the scope of practice for hearing aid dispensers to include tympanometry for patients 18 years of age and older. The Board would also be required to develop an examination to assess techniques and patient safety measures in tympanometry. Additionally, this bill would remove the requirement for an audiometer to be calibrated and checked annually.

Staff Recommendation: This bill would result in significant costs for the Board to create a new license type, develop a new examination for tympanometry, and develop regulations. Additionally, this bill may harm consumers by allowing apprentice sponsors to supervise up to three apprentices at a time and not requiring audiometers to be properly calibrated. Staff recommends the Board "Oppose" the bill. Staff also recommends the Board provide the Executive Officer with authority to negotiate amendments for this legislation, if necessary.

AB 862 (Kiley) Professions and vocations: license revocation and suspension: student loan default

Sponsor: Author

Location: Assembly Business and Professions Committee

Status: Set for Hearing April 9, 2019

Summary: This bill would prohibit DCA boards from revoking or suspending a license if the licensee is delinquent or has defaulted on a student loan.

Staff Recommendation: The Board does not currently take any enforcement action on licensees that are delinquent or have defaulted on a student loan. However, an application for licensure may be denied if an applicant has defaulted on a student loan and the applicant's transcripts are not released by the school. Staff recommends the Board "Watch" the bill at this time.

AB 1075 (Holden) California State University: speech-language pathologist programs

Sponsor: Author

Location: Assembly Higher Education Committee

Status: Set for Hearing April 9, 2019

Summary: This bill would appropriate \$750,000 to the California State University system for competitive grants to campus speech-language pathologist programs with the goal of expanding their enrollment capacity.

Staff Recommendation: Although this bill would not directly impact the Board, there is a significant need for additional speech-language pathologists. Staff recommends the Board "Support" the bill to help increase enrollment for students interested in entering the speech-language pathology profession.

AB 1545 (Oberholte) Civil penalty reduction policy

Sponsor: Author

Location: Assembly Jobs, Economic Development, and the Economy Committee

Status: Set for Hearing April 2, 2019

Summary: This bill would require state agencies to assist small businesses in complying with laws, regulations, and enforcement actions. This bill would also require state agencies to establish a policy that provides for the reduction of civil penalties for a small business. The Board would also need to post an annual report on enforcement actions and civil penalty reductions on the Board's website.

Staff Recommendation: Staff provided the DCA Budgets Office with the need for one associate governmental program analyst position to implement this bill, which will be communicated to the Legislature. Staff recommends the Board "Watch" the bill at this time.

SB 53 (Wilk) Open meetings

Sponsor: Author

Location: Senate Appropriations Committee

Status: Set for Hearing April 8, 2019

Summary: This bill would require two-member advisory committees acting in an official capacity of a state body to hold open, public meetings if the advisory committee is supported by state funds.

Staff Recommendation: This bill would impact the ability of Staff to work with Board Members to review documents, provide expert analysis, or work on regulatory language without giving public notice. Opening all advisory committee activities to the public would

increase the Board's costs for Staff to attend meetings and pay for public meeting space. Staff recommends the Board "Oppose" the bill.

SB 425 (Hill) Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct

Sponsor: Author

Location: Senate Business, Professions and Economic Development Committee

Status: Set for Hearing April 8, 2019

Summary: This bill would require health facilities and health care service plans to report any allegation of sexual abuse or sexual misconduct against a healing arts licensee to the Board within 15 days. This bill would also authorize the Board to assess a fine for failing to report, and specifies that the Board would be required to investigate the circumstances underlying the report of sexual abuse or sexual misconduct.

Staff Recommendation: Staff does not anticipate a large increase in enforcement cases as a result of this bill and recommends the Board "Watch" the bill at this time.

SB 601 (Morrell) State agencies: licenses: fee waiver

Sponsor: R Street Institute

Location: Senate Governmental Organization Committee

Status: Set for Hearing April 9, 2019

Summary: This bill would authorize a state agency to reduce or waive licensing fees for a person or business that has been displaced or affected by a proclaimed emergency.

Staff Recommendation: This bill would not require the Board to reduce or waive any licensing fees, but would rather provide the Board with discretion to do so in the case of a proclaimed emergency. Staff recommends the Board "Watch" the bill.

SB 617 (Glazer) Audiologists and hearing aid dispensers: sales of hearing aids

Sponsor: Author

Location: Senate Business, Professions and Economic Development Committee

Status: Not Set for Hearing

Summary: This bill would require a hearing aid dispenser and audiologist to provide an electronic copy of a receipt upon the sale of a hearing aid, if requested by the consumer.

Staff Recommendation: Staff recommends the Board "Watch" the bill. Staff also recommends the Board provide the Executive Officer with authority to negotiate amendments for this legislation, if necessary.



MEMORANDUM

DATE	April 3, 2019
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Proposed Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists

BACKGROUND

Today's hearing aids are digital and require programming via specific software platforms to optimize the acoustical fit for each individual patient. While most hearing aid dispensing practices fit products from a variety of manufacturers and have access to nearly all programming software packages, there are a number of hearing aid brands that require exclusive or "locked" programming software that is only available at the dispensing outlets and group businesses that sell those brands. That is, only those facilities are able to provide any programming services since other dispensers do not have access to their proprietary software.

For the consumer, this can result in the inability to obtain subsequent servicing or reprogramming for their hearing aid(s), unless the patient returns to the office from which the hearing aid(s) was purchased, or another outlet of the same company. Consumers are harmed when they, often unknowingly, purchase hearing aids that cannot be serviced or managed in a wide geographic location. Essentially this renders the hearing aid unmanageable, unless the consumer can return to the office where it was originally purchased. In some cases, the office where the hearing aid was purchased goes out of business and the hearing aid user has no recourse except to purchase a new hearing aid. This results in consumer harm through lack of access to manage their devices.

ACTION REQUESTED

Requiring a consumer disclosure for those dispensing outlets or business entities that utilize proprietary or "locked" software to program their hearing aids would require a statutory change. Changing statute would involve working with a legislator and possibly professional organizations to support the bill. Should the Board decide to address this

issue, a legislation/regulation committee can be created to start drafting a legislative proposal for next year.

AMERICANS WITH DISABILITIES ACT

Posting to our website must be ADA complaint. For those Board meeting documents that were not ADA complaint, they will be available at the Board meeting.