



## **BOARD MEETING NOTICE AND AGENDA**

*Thursday, October 10, 2019 beginning at 2:30 p.m., and continuing on  
Friday, October 11, 2019 beginning at 9:00 a.m.*

**Long Beach Marriott  
4700 Airport Plaza Drive  
Long Beach, CA 90815  
(916) 263-2666**

### **Board Members**

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

### **Full Board Meeting**

1. Call to Order / Roll Call / Establishment of Quorum
2. 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))*
3. Approval of the July 18-19, 2019 Board Meeting Minutes

### **Closed Session**

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

### **Open Session**

5. Executive Officer's Report
  - a. Administration Update
  - b. Budget Report
  - c. Licensing Report

- d. Practical Examination Report
  - e. Enforcement Report
6. Legislation Update, Review, and Possible Action
- a. Legislative Report
  - b. Board-Specific Legislation
    - AB 598 (Bloom) Hearing aids: minors
    - AB 1075 (Holden) California State University: speech-language pathologist programs
  - c. Healing Arts Legislation
    - SB 425 (Hill) Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct
    - SB 639 (Mitchell) Medical services: credit or loan
  - d. DCA-Wide Legislation
    - AB 5 (Gonzalez) Worker status: employees and independent contractors
    - AB 476 (Blanca Rubio) Department of Consumer Affairs: task force: foreign-trained professionals
    - AB 1076 (Ting) Criminal records: automatic relief
    - SB 53 (Wilk) Open meetings
    - SB 225 (Durazo) Citizens of the state
    - SB 601 (Morrell) State agencies: licenses: fee waiver
7. Recess

**Upon Recess of the Full Board Meeting:**

**Hearing Aid Dispensers Committee Meeting**

1. Call to Order / Roll Call / Establishment of Quorum
2. Public Comment for Items not on the Agenda

*The Committee 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))*
3. Discussion and Possible Action on the Use of a National Hearing Aid Dispensers Written Exam to Replace California's Written Exam
4. Discussion and Possible Action on Requiring an Apprenticeship or Training Program for Hearing Aid Dispenser Applicant's Prior to Taking the Practical Exam
5. Adjournment

**Upon Conclusion of the Hearing Aid Dispensers Committee Meeting:**

## **Audiology Practice Committee Meeting**

1. Call to Order / Roll Call / Establishment of Quorum
2. Public Comment for Items not on the Agenda  
*The Committee 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))*
3. Discussion and Possible Action on Updating the Board's Website on Auditory Processing Disorder Information
4. Discussion and Possible Action on Clarifying the Regulation on the Required Number of Clock Hours for Audiologists
5. Adjournment

### **Upon Conclusion of the Audiology Practice Committee Meeting:**

#### **Return to Full Board Meeting**

8. Update from the Hearing Aid Dispensers Committee Meeting
9. Update from the Audiology Practice Committee Meeting
10. Discussion and Possible Action of Statutes Regarding Tasks Performed by Audiology Aides
11. Discussion and Possible Action on the Issues Related to Remote Programming of Hearing Aids
12. Update on Upcoming Federal Regulations regarding Over-the-Counter Hearing Aids
13. Discussion and Possible Action on Allowing Audiologists to Perform Cognitive Screening Tests Along with the Hearing Aid Evaluation
14. Discussion and Possible Action on Board Proposed Legislation Regarding Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists
15. Board Election of Officers
16. Future Agenda Items and Future Board Meeting Dates
  - a. February 20-21, 2020 (Sacramento)

## 17. Adjournment

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

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

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



## **BOARD MEETING MINUTES – DRAFT**

### **Sacramento, California**

### **July 18-19, 2019**

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 and Audiology and Hearing Aid Dispensers Board meeting to order at 1:12 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  
Christy Cooper, AuD, Board Member  
Amnon Shalev, HAD, Board Member  
Karen Chang, Public Board Member  
Debbie Snow, Public Board Member

##### Staff Present

Paul Sanchez, Executive Officer  
Breanne Humphreys, Operations Manager  
Michael Santiago, Legal Counsel  
Tenisha Graves, Enforcement Coordinator  
Heather Olivares, Legislation/Regulation Analyst

##### Guests Present

Jacque Georgeson, University of the Pacific  
Bryce Docherty, Hearing Healthcare Providers of California

#### 2. Approval of the April 11-12, 2019 Board Meeting Minutes

##### **M/S/C Raggio/Cooper**

**Motion to approve the April 11-12, 2019 meeting minutes. The motion carried 6-0.**

### 3. Public Comment for Items not on the Agenda

Written public comment was received from Dr. Maria Abramson regarding the Auditory Processing Disorder information on the Board's website. Mr. Sanchez stated public comment cannot be discussed, but the issue can be added to a future agenda. Ms. Raggio stated the information should be reviewed and the Board should consider updating the information on the website. The written public comment will be referred to the Audiology Practice Committee to review and bring suggested language for the website to the Board at a future meeting.

4. 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.
5. Discussion and Possible Action on the Hearing Aid Dispensing Written Examination Requirement and the Possible Use of a National Examination Such as the International Licensing Examination (ILE) from the International Hearing Society (IHS).

Mr. Sanchez stated Business and Professions Code section 2538.25 requires hearing aid dispenser applicants to pass a written and practical exam. Mr. Sanchez reported the Board is responsible for the administration and development of the exam. Mr. Sanchez stated at least 44 states use the IHS International Licensing Examination. Mr. Sanchez stated a validation process would be required before the Board could change the required exam.

Ms. Raggio stated the test is administered by IHS, which represents hearing aid dispensers and it is unclear if the exam questions would be applicable to the audiology population. Mr. Sanchez stated the Board would work with the Office of Professional Exam Services (OPES) to determine whether the exam is a valid option for the Board. Mr. Shalev stated the Board would need to encompass the State laws with the IHS exam. Mr. Shalev requested Board staff invite OPES and IHS representatives to attend the next Board meeting.

The hearing aid dispensing written exam requirement and the possible use of a national exam will be referred to the Hearing Aid Dispensers Committee.

6. Discussion and Possible Action on Adding an Apprenticeship/Training Requirement for Hearing Aid Dispensers Prior to Taking the Practical Examination.

Mr. Sanchez reported AB 780 (Brough) would have created a new apprentice license as an alternate pathway to licensure. Mr. Sanchez stated Business and Professions Code section 2538.17 provides the Board with authority to require applicants to complete a course of instruction for the fitting and selection of hearing aids.

Mr. Shalev stated the Board should not create a new requirement without having the tools to fulfill the requirement. Bryce Docherty with Hearing Healthcare Providers of California (HHP) stated there isn't a formal hearing aid dispensing training program available in California, but rather hearing aid dispensing is an apprentice-based

profession. Mr. Docherty stated HHP is interested in a formal training program as an optional pathway to licensure but does not want it to be a requirement which may create a disincentive for people entering the profession. Ms. Chang expressed concern that a training program may become a requirement through legislation and the Board should prepare for that possibility.

This issue will be referred to the Hearing Aid Dispensers Committee to determine whether an apprenticeship or training program for hearing aid dispensers should be required prior to taking the practical exam.

#### 7. Discussion and Possible Action on Clarifying in Regulation the Required Number of Clock Hours for Audiologists.

Mr. Sanchez stated Business and Professions Code section 2532.25, which was amended when a doctorate degree became a requirement for licensure, requires the Board to establish by regulation the required number of clock hours of supervised clinical practice necessary for the applicant. Mr. Sanchez reported the current requirement found in California Code of Regulations section 1399.152.2(c) is 300 clock hours.

Ms. Raggio stated the regulation is based on the master's degree model and is not appropriate for doctoral level training. Jacque Georgeson with the University of the Pacific (UOP) stated the RPE verification form requires 12 months of experience and UOP's externship is 1850 hours. Ms. Georgeson stated RPEs have completed their 1850-hour externship program early and have their RPE verification form returned by the Board because they didn't complete 12 months of experience. Ms. Georgeson provided information from other states regarding the requirements for externships. Ms. Raggio stated it is reasonable to eliminate the 12-month timeframe and use clock hours as the criteria.

The Audiology Practice Committee will contact the directors of the new and existing programs with a standard set of questions and will provide the Board with additional information at the next meeting.

#### 8. Executive Officer's Report a. Administration Update

Mr. Sanchez reported the Board recently hired a new licensing analyst, Theo Ross. Mr. Sanchez stated the Board is also recruiting for another licensing analyst position, a part-time analyst position to assist with regulations, and an office technician position.

#### b. Budget Report

Mr. Sanchez reported the Board is on track to meet the budget projections. Mr. Sanchez also provided an overview of the Board's fund condition and stated in Fiscal Year 2019-20 the Board is projected to spend more than the anticipated revenue.

c. Licensing Report

Mr. Sanchez stated the Board is in its peak licensing season and staff process about 4,000 applications per year. Mr. Sanchez also reported that online license renewals are now available.

d. Practical Examination Report

Mr. Sanchez reported that a practical exam was held on April 6<sup>th</sup> and another exam will be held on July 27<sup>th</sup>.

e. Enforcement Report

Mr. Sanchez reported in Fiscal Year 2017-18 the Board received over 300 complaints, which was a spike. The Board has returned to the normal range of approximately 150 complaints per year.

**Petition Hearings for Reinstatement of Licensure or Other Reduction of Penalty (Time Certain: July 19, 2019 at 9:00 a.m.)**

9. Petition for Reinstatement of Revoked or Surrendered License – Michael Trythall, Audiology, License Number 2225

The administrative law judge opened the hearing. Veronica Vo presented the case to the Board. The administrative law judge swore in Michael Trythall. Ms. Vo questioned Mr. Trythall and Mr. Trythall responded to Ms. Vo's questions. Mr. Trythall responded to the Board's questions. Ms. Vo had no further questions.

**Closed Session**

10. 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**

11. Discussion and Possible Action regarding Speech-Language Pathology and Audiology Fees (As Stated in Title 16, California Code of Regulations, sections 1399.157, 1399.170.13, and 1399.170.14)

Ms. Olivares explained in 2015 the Board approved a regulatory proposal to increase the fees and made a policy decision that the SLPA fees should be lower than the SLP fees. However, the regulatory proposal was revised in 2018 and the Board approved an application fee of \$150.00 for SLPAs, which is above the statutory maximum. Ms. Olivares provided an overview of the revised regulatory proposal which returns to the Board's original intent that SLPA fees should be lower than SLP fees.



## **M/S/C Chang/Snow**

**Motion to approve the proposed regulatory language and delegate authority to the Executive Officer to make changes consistent with Board policy. The motion carried 6-0.**

The Board approved the regulatory language to increase the fees for the speech-language pathology and audiology professions, but this is the first step in the process and not the final approval. The regulatory proposal still needs to go through the formal rulemaking process set forth in the Administrative Procedure Act.

### 12. Legislation Update, Review, and Possible Action

#### a. Legislative Report

Ms. Olivares reported the Legislature is currently on summer recess until August 12<sup>th</sup>.

#### b. Board-Specific Legislation

- AB 598 (Bloom) Hearing aids: minors

Ms. Olivares provided an overview of recent amendments, which would require coverage be provided by a contracted provider and require a pediatric audiologist provide services for children under 5 years of age. Ms. Olivares recommended the Board continue to Support the bill.

Ms. Raggio asked for clarification regarding the recent amendment requiring coverage be provided by a contracted provider. Ms. Olivares stated this amendment is most likely an attempt to remove some of the opposition to the bill.

Ms. Cooper stated there is not a separate license for pediatric audiologist. Ms. Raggio responded the American Academy of Audiology has a voluntary certification for pediatric audiologist.

Mr. Shalev expressed concern that requiring coverage be provided by a contracted provider restricts access to the consumer.

## **M/S/C Chang/Cooper**

**Motion to direct Board staff to send a position letter in Support of the bill that outlines concerns regarding consumer access and that a pediatric audiologist isn't defined. The motion carried 6-0.**

- AB 780 (Brough) Hearing aid dispensers: practice: cerumen management: apprentice license

Ms. Olivares reported the bill was held in the Assembly Appropriations Committee and will not be moving forward this year.

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

Ms. Olivares provided an overview of recent amendments, which would require the California State University (CSU) system, upon appropriation of General Fund dollars, to allocate the funds through competitive grants to campus speech-language pathologist programs. Ms. Olivares stated money has been appropriated through the State budget. Ms. Olivares recommended the Board continue to Support the bill or move to a Watch position.

Mr. Sanchez stated the Board should continue to Support the bill due to the need for additional speech-language pathologists and recognizing the Legislature for addressing the need.

Ms. Raggio stated enrollment is increased through more faculty and the grant writing process makes sense because the number of faculty varies throughout the CSU programs.

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

Ms. Olivares reported the bill was amended to address a pharmacy technician issue and will no longer be monitored by Board staff.

c. Healing Arts Legislation

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

Ms. Olivares provided an overview of the bill and stated the Board does not anticipate an increase in enforcement workload. Ms. Olivares recommended a Support or Watch position.

Ms. Snow stated this is a consumer protection issue and often bad practitioners are not reported, but rather passed from one institution to another.

**M/S/C Snow/Cooper**

**Motion to Support the bill. Motion carried 6-0.**

- SB 639 (Mitchell) Medical services: credit or loan

Ms. Olivares provided an overview of the bill and stated the Board does not anticipate an increase in enforcement workload. Ms. Olivares recommended a Watch position.

d. DCA-Wide Legislation

- AB 5 (Gonzalez) Worker status: employees and independent contractors

Ms. Olivares provided an overview of the bill and stated the bill would not impact the Board's use of subject matter experts or examiners. Ms. Olivares recommended a Watch position.

- AB 193 (Patterson) Professions and vocations

Ms. Olivares reported the bill is not moving forward this year and will no longer be monitored by Board staff.

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

Ms. Olivares reported the bill is not moving forward this year and will no longer be monitored by Board staff.

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

Ms. Olivares provided an overview of the bill and stated the bill may increase the Board's pro rata paid to the Department of Consumer Affairs. Mr. Sanchez stated the financial impact to the Board would be minor. Ms. Olivares recommended a Watch position.

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

Ms. Olivares reported the bill is not moving forward this year and will no longer be monitored by Board staff.

- AB 613 (Low) Professions and vocations: regulatory fees

Ms. Olivares reported the bill is not moving forward this year and will no longer be monitored by Board staff.

- AB 1076 (Ting) Criminal records: automatic relief

Ms. Olivares provided an overview of the bill and stated current law allows certain arrest and criminal conviction information to be sealed through a court petition process and this bill would make the process automatic. Ms. Olivares recommended a Watch position.

- AB 1545 (Obernalte) Civil penalty reduction policy

Ms. Olivares reported the bill is not moving forward this year and will no longer be monitored by Board staff.

- SB 53 (Wilk) Open meetings

Ms. Olivares provided an overview of the bill and stated the bill would impact Staff's ability to work with Board Members without providing public notice. Mr. Shalev expressed concern regarding closed Board meetings which must be publicly noticed and then the public must leave for the closed session.

- SB 225 (Durazo) Citizens of the state

Ms. Olivares provided an overview of the bill and stated the bill would have minimal impact on the Board. Ms. Olivares recommended a Watch position.

Mr. Shalev stated a person without permanent legal status should not be able to hold civil office. Ms. Chang stated a person in the State without legal status is still a consumer and should have the same opportunity to sit on the Board.

**M/S/F Shalev/Cooper**

**Motion to Oppose the bill. The motion failed 2-1 with Ms. Snow, Ms. Raggio, and Ms. Parker abstaining.**

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

Ms. Olivares provided an overview of the bill and stated the bill would not require the Board to reduce or waive any licensing fees but would authorize the Board to establish an application process if the Board wishes to reduce fees. Ms. Olivares recommended a Watch position.

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

Ms. Chang requested a status update on adding probation monitoring costs to the disciplinary guidelines.

Mr. Sanchez reported the next Board Meeting will be October 10-11 in Long Beach. Ms. Chang recommended using other State offices for meeting locations.

### 14. Adjournment

The meeting adjourned at 1:39 p.m.



## MEMORANDUM

<b>DATE</b>	October 3, 2019
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Executive Officer Report</b>

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

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

The Board is recruiting for one licensing analyst and one regulations analyst. Interviews will be held in October 2019.

In September 2019, the Board filled two of its three vacancies. Dustin Kramer was hired as a licensing analyst and comes to us from the California Board of Accountancy. Along with his extensive customer service background and licensing experience, Dustin has experience working in DCA systems and understands the licensing processes.

Kirsten Votaw was hired as an administrative assistant and comes to us from the Department of Industrial Relations. Kirsten will be assisting with front desk duties, telephone calls and inquiries and provide support to the Board's licensing operations.

### **Budget**

Included in your Board materials is the most recent Expenditure and Revenue Projection Reports. These reports reflect fiscal activity through August 31, 2019. The Expenditure Report is based on a limited amount of data that is available at this point in the year. Based on the limited data, we show the Board is on track to spend below its appropriated budget with a potential reversion of over six percent of its budget.

**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. Licensing processing times have been impacted by staff turnover and the training of new staff. We are in the middle of the Board’s peak licensing period. With one vacancy and a new licensing staff member, other Board staff will assist in meeting the Board’s desired cycle times and performance goals.

Licensing Cycle Times	8/1/18	11/1/18	3/1/19	8/1/19	10/1/19
SLP and Audiologists Complete Licensing Applications	2 weeks	3 weeks	1 week	4 weeks	4 weeks
Review and Process SLP and Audiologist Supporting Licensing Documents	1 week	1 weeks	1 week	2 weeks	9 weeks
Review and Process RPE Applicant’s Verification Forms for Full Licensure	1 week	2 weeks	1 week	3 weeks	4 weeks
Hearing Aid Dispensers Applications	Current	Current	Current	Current	Current

Practical Examination – Included in your Board materials is a summary of the results of the Hearing Aid Dispensers Practical Examination held on July 27, 2019. The Board is searching for a site to conduct a practical examination in southern California in early to mid 2020. Below are the upcoming Practical Examination and Filing Dates:

Date of Exam:	Location:	Filing Periods:
November 16, 2019	Sacramento	September 26, 2019 to October 17, 2019
January 25, 2020	Sacramento	December 6, 2019 to December 27, 2019
April 25, 2020	Sacramento	March 6, 2020 to March 27, 2020
July 25, 2020	Sacramento	June 5, 2020 to June 26, 2020

Enforcement – In the first quarter of 2019-20, the Board received 53 complaints and subsequent arrest notifications. There are currently 14 formal discipline cases pending with the Attorney General’s Office. The Board is currently monitoring 33 probationers of which nine probationers require drug or alcohol testing and eight are in a tolled status.

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

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Name	License No.	License Type	Case No.	Effective Date	Action Taken
LaFavre, Scott Alexander	RPE 14058	Required Professional Experience	1I-2018-248	September 29, 2019	Revocation stayed, four years probation with specified terms and conditions.
Trythall, Michael Ryan	AU 2225	Audiologist	1I-2019-57	September 19, 2019	Reinstatement of surrendered license granted. Revocation stayed, seven years probation with specified terms and conditions.
Majdi, Shawn	HA 2653	Hearing Aid Dispenser	D1-2007-99	September 16, 2019	Voluntary surrender of license.
Kahlon, Jassica Kaur	SPA 4191	Speech-Language Pathology Assistant	1I-2016-117	August 26, 2019	Revocation stayed, four years probation with specified terms and conditions.
Hopkins, Dawn Marie	SP 12177	Speech-Language Pathologist	1I-2015-063	July 20, 2019	Revocation stayed, three years probation with specified terms and conditions.
Lee, Kwang Ho (Ken)	HA 7552	Hearing Aid Dispenser	1C-2012-062	June 12, 2019	Voluntary surrender of license.
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

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Name	License No.	License Type	Case No.	Effective Date	Action Taken
					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 2019-20 BUDGET REPORT**

FM 02

OBJECT DESCRIPTION	FY 2018-19		FY 2019-20				
	ACTUAL	PRIOR YEAR	CY	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (Prelim FM12)	EXPENDITURES (Prelim 2)	BUDGET 2019-20	EXPENDITURES 9.26.2019	SPENT	TO YEAR END	BALANCE
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	525,967	68,703	619,000	95,365	15%	600,000	19,000
Temp Help	224	118	1,000	0	0%	0	1,000
Statutory Exempt (EO)	94,944	15,824	82,000	16,378	20%	98,000	(16,000)
Board Member Per Diem	4,700	3,900	6,000	1,200	0%	5,000	1,000
Overtime/Flex Elect	36,663	4,999	5,000	4,674	93%	37,000	(32,000)
Staff Benefits	329,130	45,566	382,000	59,716	16%	374,000	8,000
<b>TOTALS, PERSONNEL SVC</b>	<b>991,628</b>	<b>139,110</b>	<b>1,095,000</b>	<b>177,333</b>	<b>16%</b>	<b>1,114,000</b>	<b>(19,000)</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	34,923	7,165	74,000	6,411	9%	35,000	39,000
Printing	10,587	0	25,000	10,026	40%	11,000	14,000
Communication	5,986	65	20,000	106	1%	6,000	14,000
Postage	19,259	0	24,000	0	0%	19,000	5,000
Insurance	4,040	0	0	0	0%	1,000	(1,000)
Travel In State	5,210	0	24,000	995	4%	5,000	19,000
Travel, Out-of-State	0	0	0	0	0%	0	0
Training	0	0	9,000	0	0%	0	9,000
Facilities Operations	86,769	13,574	85,000	11,828	14%	87,000	(2,000)
Utilities	0	0	0	0	0%	0	0
C & P Services - Interdept.	49	0	24,000	0	0%	0	24,000
Attorney General	112,665	11,351	97,000	11,723	12%	150,000	(53,000)
Office Admin. Hearings	37,170	0	22,000	0	0%	37,000	(15,000)
C & P Services - External	71,696	2,250	70,000	17,122	24%	72,000	(2,000)
DCA Pro Rata	392,000	0	370,000	61,667	17%	370,000	0
DOI - Investigations	200,000	0	215,000	179,167	83%	215,000	0
Interagency Services	0	0	29,000	0	0%	0	29,000
IA w/ OPES	0	0	60,000	0	0%	0	60,000
Consolidated Data Center	195	23	10,000	99	1%	0	10,000
Information Technology	2,013	0	17,000	0	0%	2,000	15,000
Equipment	0	0	0	1,164	0%	5,000	(5,000)
<b>TOTALS, OE&amp;E</b>	<b>982,562</b>	<b>34,428</b>	<b>1,175,000</b>	<b>300,307</b>	<b>26%</b>	<b>1,015,000</b>	<b>160,000</b>
<b>TOTAL EXPENSE</b>	<b>1,974,190</b>	<b>173,538</b>	<b>2,270,000</b>	<b>477,640</b>	<b>21%</b>	<b>2,129,000</b>	<b>141,000</b>
Sched. Reimb. - Fingerprints	(33,143)	(6,615)	(31,000)	(27,508)	89%	(31,000)	0
Sched. Reimb. - Other	(3,055)	(1,175)	(2,000)	(19,279)	964%	(2,000)	0
Unsched. Reimb. - Other	(17,398)	(3,801)	0	0	0%	0	0
<b>NET APPROPRIATION</b>	<b>1,920,594</b>	<b>161,947</b>	<b>2,237,000</b>	<b>430,853</b>	<b>19%</b>	<b>2,096,000</b>	<b>141,000</b>
<b>SURPLUS/(DEFICIT):</b>							<b>6.3%</b>

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

LICENSES ISSUED	FY14/15	FY15/16	FY16/17	FY17/18	FY 18/19	FY 18/19
						QTR 1
AU	89	48	53	77	63	32
DAU	UA	26	24	30	35	13
AUT	0	0	0	2	4	0
SLP	1143	1352	1457	1482	1446	460
SPT	0	0	0	0	0	0
SLPA	550	606	501	558	602	199
RPE	836	834	897	945	977	533
AIDE	48	44	44	33	32	9
CPD	17	22	21	20	15	0
HAD Permanent	92	140	120	137	135	38
HAD Trainee	145	180	152	169	156	42
HAD Licensed in Another State	9	16	16	20	17	6
HAD Branch	426	407	315	341	333	81
<b>TOTAL LICENSES ISSUED</b>	<b>3355</b>	<b>3675</b>	<b>3600</b>	<b>3814</b>	<b>3815</b>	<b>1413</b>

LICENSEE POPULATION	FY14/15	FY15/16	FY16/17	FY17/18	FY 18/19	FY 18/19
			*	*	*	*QTR 1
AU	612	556	698	720	831	842
DAU	988	1,045	1,211	1,246	1,334	1,352
<i>Both License Types</i>	<i>1,600</i>	<i>1,601</i>	<i>1,909</i>	<i>1,966</i>	<i>2,165</i>	<i>2,194</i>
AUT	0	0	0	0	0	0
SLP	13,967	14,860	18,024	19,161	21,374	21,747
SPT	0	0	0	0	0	0
SLPA	2,343	2,795	3,752	4,118	4,822	4,960
RPE	802	806	1,174	1,232	1,364	1,604
AIDE	124	133	235	216	245	256
HAD	948	996	1,179	1,266	1,380	1,401
HAD Trainees	160	158	238	204	214	211
HAD Licensed in Another State	7	18	18	28	31	36
HAD Branch Office	821	963	1,409	1,297	1,347	1,340
<b>TOTAL LICENSEES</b>	<b>20,772</b>	<b>22,330</b>	<b>27,938</b>	<b>29,488</b>	<b>32,942</b>	<b>33,749</b>

July 27, 2019 Hearing Aid Dispensers Practical Examination

Candidate Type	Number of Candidates	Passed	%	Failed	%
<b>Applicants with Supervision (Temporary License)</b>					
HA	42	36	86%	6	14%
AU	5	4	80%	1	20%
RPE					
Aide					
<b>Applicants Licensed in Another State (Temporary License)</b>					
HA					
AU					
<b>Applicants without Supervision</b>					
HA	6	4	67%	2	33%
AU	6	5	83%	1	17%
RPE	2	1	50%	1	50%
		<b>Passed</b>	<b>%</b>	<b>Failed</b>	<b>%</b>
<b>Total Number of Candidates</b>	61	50	82%	11	18%

Speech-Language Pathology Audiology Hearing Aid Dispensers Board

**ENFORCEMENT REPORT**

	FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		FISCAL YEAR 2018 - 2019		Quarter 1 2019 - 2020	
<b>COMPLAINTS AND CONVICTIONS</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Complaints Received	75	59	154	157	68	78	12	21
Convictions Received	15	84	24	101	31	90	4	16
Average Days to Intake	3	2	2	2	1	1	1	1
Closed	76	124	121	214	72	114	14	19
Pending	56	51	117	100	147	156	149	176

	FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		FISCAL YEAR 2018 - 2019		Quarter 1 2019 - 2020	
<b>INVESTIGATIONS Desk</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	90	143	178	257	99	169	16	37
Closed	71	118	113	205	65	110	14	19
Average Days to Complete	132	91	201	73	164	137	145	110
Pending	45	39	104	89	139	142	137	162

	FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		FISCAL YEAR 2018 - 2019		Quarter 1 2019 - 2020	
<b>INVESTIGATIONS DOI</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	11	9	10	7	2	8	4	0
Closed	5	6	8	9	7	4	0	0
Average Days to Complete	148	709	442	497	747	766	0	0
Pending	11	12	13	10	8	14	12	14

	FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		FISCAL YEAR 2018 - 2019		Quarter 1 2019 - 2020	
<b>ALL TYPES OF INVESTIGATIONS</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Closed Without Discipline	69	111	116	197	68	105	13	18
Cycle Time - No Discipline	125	69	210	73	212	145	156	116

	FISCAL YEAR 2016 - 2017		FISCAL YEAR 2017 - 2018		FISCAL YEAR 2018 - 2019		Quarter 1 2019 - 2020	
<b>CITATIONS/Cease&amp;Desist</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Issued	8	8	9	12	5	11	2	0
Avg Days to Complete Cite	98	44	7	169	138	162	549	0
Cease & Desist Letter	1	1	2	1	1	1	0	0

# Speech-Language Pathology Audiology Hearing Aid Dispensers Board

<b>ATTORNEY GENERAL CASES</b>	<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>FISCAL YEAR 2018 - 2019</b>		<b>Quarter 1 2019 - 2020</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Pending at the AG	8	6	7	11	6	12	6	8
Accusations Filed	2	3	3	2	0	4	1	2
SOI Filed	0	0	1	1	2	3	0	0
Acc Withdrawn, Dismissed, Declined	2	1	2	1	0	3	0	0
SOI Withdrawn, Dismissed, Declined	1	1	0	0	2	1	0	0
Average Days to Discipline	1260	979	780	723	745	449	669	714

<b>ATTORNEY GENERAL FINAL OUTCOME</b>	<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>FISCAL YEAR 2018 - 2019</b>		<b>Quarter 1 2019 - 2020</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Probation	6	7	2	1	1	2	0	4
Surrender of License	3	1	1	2	0	0	0	0
License Denied (SOI)	0	0	0	0	0	0	0	0
Suspension & Probation	0	0	0	0	0	0	0	0
Revocation-No Stay of Order	0	2	1	0	0	0	0	0
Public Reprimand/Reproval	0	0	0	1	0	0	0	0



# MEMORANDUM

DATE	October 1, 2019
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Legislative Report

## Legislative Calendar Highlights

September 13, 2019 – last day for the Legislature to pass bills  
 October 13, 2019 – last day for the Governor to sign or veto bills  
 January 6, 2020 – Legislature reconvenes

## Board-Specific Legislation

### **AB 598 (Bloom) Hearing aids: minors**

**Sponsor:** Author

**Location:** Assembly

**Status:** Held at desk

**Board's Current Position:** Support

**Summary:** This bill would require health plans and health insurance policies to include coverage for hearing aids, up to \$3,000, every four years for all enrollees under 18 years of age when medically necessary. Coverage must be provided by contracted providers unless the plan or policy allows for out-of-network coverage. For children under five years of age, a contracted provider must include a pediatric audiologist. *According to the Author's office this bill may be amended early next year to address the Governor's concerns.*

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

**Sponsor:** Author

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Board's Current Position:** Support

**Summary:** This bill would require the California State University (CSU) system, upon appropriation of General Fund dollars, to allocate the funds through competitive grants to campus speech-language pathologist programs.

### **Healing Arts Legislation**

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

**Sponsor:** Author

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Board's Current Position:** Support

**Summary:** This bill would require health care facilities to report any allegation from a patient of sexual abuse or sexual misconduct by a healing arts licensee to the Board within 15 days. The Board would be required to investigate the circumstances underlying the report of sexual abuse or sexual misconduct.

#### **SB 639 (Mitchell) Medical services: credit or loan**

**Sponsor:** Western Center on Law and Poverty

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Summary:** This bill would prohibit a healing arts licensee from arranging or establishing an open-end credit or loan that contains a deferred interest provision. This bill would also prohibit a licensee from charging treatment costs to an open-end credit or loan extended by a third-party more than 30 days prior to treatment. Additionally, this bill would require licensees that accept Medi-Cal to indicate on the treatment plan if Medi-Cal would cover an alternate, medically appropriate service.

### **DCA-Wide Legislation**

#### **AB 5 (Gonzalez) Worker status: employees and independent contractors**

**Sponsor:** Author

**Location:** Governor's Desk

**Status:** Signed

**Summary:** This bill would codify the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) that presumes a worker is an employee unless the hiring entity satisfies a three-factor test, commonly known as the "ABC" test. These factors include:

- that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- that the worker performs work that is outside the usual course of the hiring entity's business; and
- that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

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

**Sponsor:** California Immigrant Policy Center

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Summary:** This bill would require the Department of Consumer Affairs 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.

**AB 1076 (Ting) Criminal records: automatic relief**

**Sponsor:** Californians for Safety and Justice

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Summary:** Current law allows an individual to have certain arrest and criminal conviction information sealed through a court expungement process. This bill would require the Department of Justice to identify individuals eligible for relief by having their arrest or criminal conviction records withheld from disclosure without requiring a petition or motion.

**SB 53 (Wilk) Open meetings**

**Sponsor:** Author

**Location:** Assembly Appropriations Committee

**Status:** Held under submission

**Board's Current Position:** Oppose

**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.

**SB 225 (Durazo) Citizens of the state**

**Sponsor:** Coalition for Humane Immigrant Rights

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Summary:** This bill would allow any person at least 18 years of age and a resident of California to hold an appointed civil office regardless of that person's citizenship and immigration status.

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

**Sponsor:** R Street Institute

**Location:** Governor's Desk

**Status:** Waiting for Sign/Veto

**Summary:** This bill would authorize a state agency to establish an application process to reduce or waive licensing fees for a person or business that has been displaced or is experiencing economic hardship as a result of a declared emergency.





## MEMORANDUM

<b>DATE</b>	October 7, 2019
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	Discussion and Possible Action of Statutes Regarding Tasks Performed by Audiology Aides

### BACKGROUND

By report, audiology licensees, who utilize audiology aides, have espoused complaints of apparent ambiguity with regard to the requirements for the clinical task allowances and supervision for audiology aides. The present and pertinent statutory and regulatory language below states the audiology aide and supervisory requirements.

Business and Professions Code section 2530.2(m) defines audiology aide as any person meeting the minimum requirements established by the board. An audiology aid may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that his or her employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

CCR 1399.154.2 (b) states that a supervisor of an audiology aide shall: Be physically present while the (...) audiology aide is assisting with patients, unless an alternative plan of supervision has been approved by the Board.

CCR 1399.154.2 (c) states that a supervisor of an audiology aide shall: train the (...) audiology aide to perform duties to effectively assist in evaluation and/or treatment.

CCR 1399.154.2 (f) states that a supervisor of an audiology aide shall: (...) Those services shall not exceed the competence of the aide as determined by his or her education, training and experience and shall not include any treatment beyond the plan established by the supervisor for the patient.

### PROBLEM

Due to the perceived lack of clarity with regard to appropriate clinical tasks and supervision requirements for audiology aides, the aides have been able to perform any

and all clinical services normally provided by an audiologist without the training or education of an audiologist. Further, aides have been trained to do what a supervisor considers to be a competent level for a particular clinical task and then left to perform that task independently without supervision from a supervisor who is physically present.

**ACTION REQUESTED**

The Board may wish to consider:

- 1) avenues to better educate licensees regarding the appropriate utilization of audiology aides such that compliance is met with regard to the above statutes and regulations
- 2) adaptation of the current audiology aide application such that statutory and regulatory requirements will be clearly conveyed



## MEMORANDUM

<b>DATE</b>	October 7, 2019
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	Discussion and Possible Action on the Issues Related to Remote Programming of Hearing Aids

### BACKGROUND

The Board has the following information on its website regarding telehealth technology:

#### IN CALIFORNIA:

Telehealth is viewed as a mode of delivery of health care services, not a separate form of practice. There are no legal prohibitions to using this form of technology in the practice of speech-language pathology, audiology, or hearing aid dispensing, as long as the practice is done by a California licensed practitioner. Telehealth is not a telephone conversation, e-mail/instant messaging conversation, or fax; it typically involves the application of videoconferencing or store-and-forward technology to provide or support health care delivery. The standard of care is the same whether the patient is seen in-person, through telehealth, or other methods of electronically enabled health care. Practitioners need not reside in California, as long as they hold a valid, current California license. The laws govern the practice of speech-language pathology, audiology, and hearing aid dispensing, and no matter how communication is performed, the standard of care is the same. Practitioners using Telehealth technologies to provide care to patients located in California must be licensed in California and must provide appropriate services and/or treatment to the patient.

#### CALIFORNIA LICENSED SPEECH-LANGUAGE PATHOLOGISTS, AUDIOLOGISTS, AND HEARING AID DISPENSERS PRACTICING MEDICINE IN OTHER STATES:

California licensees intending to practice via telemedicine technology to treat patients outside of California should check with other state licensing boards. Most states require practitioners to be licensed, and some have enacted limitations to telemedicine practice or require or offer a special registration for interstate practice.

### **ACTION REQUESTED**

Please review the enclosed article, "Are You Ready for Remote Hearing Aid Programming?" The Board should discuss the rules/requirements for California licensees who wish to program hearing aids for patients living outside of California and the requirements for an audiologist or hearing aid dispenser outside of California wanting to program hearing aids within the state. The Board should be aware of the rules and be ready to inform the pertinent licensees how to manage this issue since it is a growing aspect of hearing aid dispensing.

The Board may wish to revise the information on the website to make it clear that an individual needs a California license to remotely program hearing aids whether the licensee is in or out of California and the patient is in California. The information could also be revised to make it clear that an individual must have a California license to provide remote hearing aid programming for patients who are outside of California.



## MEMORANDUM

<b>DATE</b>	October 1, 2019
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	Update on Upcoming Federal Regulations regarding OTC Hearing Aids

### BACKGROUND

The Food and Drug Administration (FDA) Reauthorization Act of 2017 enacted a definition, outlined certain requirements, and set forth a process for establishing a category of over-the-counter (OTC) hearing aids and the requirements that apply to them. That statutorily mandated process requires the FDA to publish proposed regulations by August 18, 2020, consider public comments, and publish final regulations within 180 days of the close of the comment period.

The regulations for OTC hearing aids must: (1) provide reasonable assurances of safety and efficacy; (2) establish output limits and labeling requirements; and (3) describe requirements for the sale of hearing aids in-person, by mail, or online, without a prescription.

Although the FDA is not required to publish proposed regulations for OTC hearing aids until August 2020, it is anticipated the proposed regulations may be available for public comment as soon as November 2019.

### ACTION REQUESTED

The Board should discuss whether the Board wants to submit formal written public comment on the proposed regulations for OTC hearing aids.



## MEMORANDUM

<b>DATE</b>	October 3, 2019
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	Discussion and Possible Action on Allowing Audiologists to Perform Cognitive Screening Tests Along with the Hearing Aid Evaluation

### BACKGROUND

Business and Professions Code section 2530.2(k) outlines the scope of practice for audiology as follows:

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior, or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including hearing aid recommendation and evaluation procedures, including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

### ACTION REQUESTED

Enclosed are two articles regarding cognitive screenings in audiology. These articles recommend that audiologists should perform at least simple cognitive tests due to the relationship between hearing loss and cognitive decline. Please review and be prepared to discuss whether cognitive screening is within the scope of practice of an audiologist.



## MEMORANDUM

DATE	October 3, 2019
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Discussion and Possible Action on Board Proposed Legislation Regarding Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists

### BACKGROUND

Current 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 can 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.

### PROPOSED LEGISLATION

**Amend Business and Professions Code Section 2538.35 as follows:**

ARTICLE 8. Hearing Aid Dispensers [2538.10 - 2538.57]

2538.35.

*(a) A licensee shall, prior to the sale of a hearing aid that uses proprietary hearing aid programming software that is provided by a corporate owned store or franchised hearing aid manufacturer, provide the consumer with a written notice that the hearing aid being purchased can only be programmed at the facility from which it was purchased or another affiliated facility that sells the same product. The written notice shall be in 12-point font or larger and must be signed by the consumer prior to the purchase and kept with the consumer's records.*

(b) A licensee shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensee, containing all of the following:

~~(a)~~ (1) The date of consummation of the sale.

~~(b)~~ (2) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

~~(c)~~ (3) The address of the principal place of business of the licensee, and the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

~~(d)~~ (4) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

~~(e)~~ (5) The number of the licensee's license and the name and license number of any other hearing aid dispenser, temporary licensee, or trainee licensee, who provided any recommendation or consultation regarding the purchase of the hearing aid.

~~(f)~~ (6) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

**Amend Business and Professions Code Section 2538.35 as follows:**

ARTICLE 9. Dispensing Audiologists [2539.1 - 2539.14]

2539.4.

*(a) A licensee shall, prior to the sale of a hearing aid that uses proprietary hearing aid programming software that is provided by a corporate owned store or franchised hearing aid manufacturer, provide the consumer with a written notice that the hearing aid being purchased can only be programmed at the facility from which it was purchased or another affiliated facility that sells the same product. The written notice shall be in 12-point font or larger and must be signed by the consumer prior to the purchase and kept with the consumer's records.*

(b) A licensed audiologist shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensed audiologist, containing all of the following:

~~(a)~~ (1) The date of consummation of the sale.

~~(b)~~ (2) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

~~(c)~~ (3) The address of the principal place of business of the licensed audiologist, and the address and office hours at which the licensed audiologist shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

~~(d)~~ (4) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.



(e) (5) The number of the licensed audiologist's license and the name and license number of any other hearing aid dispenser, temporary licensee, or audiologist who provided any recommendation or consultation regarding the purchase of the hearing aid.

(f) (6) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

## DISCUSSION

1. Should providers be required to provide consumers notice of the use of proprietary hearing aid software during the hearing aid evaluation?
2. Should "proprietary hearing aid programming software," "corporate owned store", and "franchised hearing aid manufacturer" be defined or clarified?
3. Should "affiliated facility" and "same product" be defined or clarified?
4. Should the proposed legislation require the written notice to provide the locations of the affiliated facilities that can program the proprietary hearing aid software?
5. Should the proposed legislation require the notice to be ADA-compliant in at least 12-point font or consistent with the Song-Beverly Act requirement of 10-point bold font?

This is Arial 12-point font.

**This is Arial 10-point bold font.**

## ACTION REQUESTED

Adopt the legislative proposal with any desired changes to the language and direct Board Staff to work with the Department of Consumer Affairs, Division of Legislative Affairs to find an Author for the legislative proposal.

## NEXT STEPS

Board Staff will submit the legislative proposal to the Department of Consumer Affairs, Division of Legislative Affairs for review and feedback. Board Staff will work with DCA Legislative Affairs to find an Author for the legislative proposal. If successful in finding an Author for the legislative proposal, the bill will be "Introduced" sometime in January or February of 2020 to begin the first step of the legislative process.



## MEMORANDUM

<b>DATE</b>	October 2, 2019
<b>TO</b>	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	Board Election of Officers

### BACKGROUND

The Board is required to elect annually, officers for the positions of chairperson and vice chairperson (Business and Professions Code 2531.7). The current Board officers were elected to at the May 2017 meeting.

#### Role of Chair

- **Board Business:** Conducts the Board's business and represents the Board in a professional manner and with appropriate transparency, adhering to the highest ethical standards.
- **Board Meeting Agendas:** Develops agendas for meetings with the Executive Officer and Legal Counsel. Presides at Board Meetings. Presides over Board meetings and conducts roll call votes using Roberts Rules of Order as a guide while adhering to the Bagley-Keene Act.
- **Board Affairs:** Ensures that Board matters are handled properly, including preparation of pre-meeting materials, committee functioning and orientation of new Board Members.
- **Governance:** Ensures the prevalence of Board governance policies and practices, acting as a representative of the Board as a whole.
- **Executive Officer:** Responsible for providing guidance to EO. Communicates frequently with EO regarding Board, Department, legislative, or statewide regulatory issues relating to the practices of speech-language pathology, audiology and hearing aid dispensing. Convenes Board discussions for evaluating EO each fiscal year.
- **Board Committees:** Seeks volunteers for committees and coordinates individual

Board Member assignments. Makes sure that each committee has a chairperson, and stays in touch with chairpersons to be sure that their work is carried out. Obtains debrief from each Board Committee chairperson and reports committee progress and actions to Board at the Board Meeting.

- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization (as does the Executive Officer and Public Outreach Committee).

**Role of Vice Chair**

- **Board Business:** Performs the duties and responsibilities of the Chair when the Chair is absent. Assist with tasks as delegated by Board Chair.

**ACTION REQUESTED**

Elect a chairperson and vice chairperson to serve a one-year term beginning January 1, 2019.

## AMERICANS WITH DISABILITIES ACT

Postings 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.