STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
1601 Response Road, Suite 260, Sacramento, CA 95815
P (916) 287-7915 | www.speechandhearing.ca.gov

TELECONFERENCE BOARD MEETING NOTICE AND AGENDA

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (Board) will hold a Board Meeting via WebEx Events on

Thursday, October 27, 2022, beginning at 1:00 p.m., and continuing on Friday, October 28, 2022, beginning at 9:00 a.m.

NOTE: Pursuant to the provisions of Government Code section 11133, neither Board member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided below. If you have trouble getting on the WebEx event to listen or participate, please call 916-287-7915.

IMPORTANT NOTICE TO THE PUBLIC:

The Board will hold this public meeting via WebEx, to observe and participate, please log on to WebEx (Instructions to connect to this meeting can be found at the end of this agenda). To participate in the WebEx Events meeting, please log on to the following websites each day of the meeting:

Thursday, October 27, 2022, WebEx Link, beginning at 1:00 p.m.:
If accessing by computer or online:
https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m6f8d88fe962be29ea024a61023bc4f6a

If accessing by phone: Dial +1-415-655-0001 US Toll, Access code: 248 714 48246, Passcode: 75724210

Friday, October 28, 2022, WebEx Link, beginning at 9:00 a.m.:
If accessing by computer or online:
https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m31e4df03dca23b72e953fb0279069bfe

If accessing by phone: Dial +1-415-655-0001 US Toll, Access code: 249 597 74974, Passcode: 75724210

Due to potential technical difficulties, please consider submitting written comments by 5:00 pm, Tuesday, October 25, 2022, to speechandhearing@dca.ca.gov for consideration.

Action may be taken on any agenda item. Items may be taken out of order to facilitate the effective transaction of Board business.

Thursday, October 27, 2022, beginning at 1:00 p.m.

Audiology Practice Committee Members

Marcia Raggio, Dispensing Audiologist, Committee Chair
Karen Chang, Public Member
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist

Audiology Practice Committee Agenda

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. Review and Possible Approval of the September 23, 2020, Audiology Practice Committee Meeting Minutes

4. Discussion and possible action regarding Statutory and/or Regulatory Requirements Related to Audiology Aide Scope of Practice and Supervision Requirements as stated in Business and Professions Code (BPC) section 2530.2 and Title 16, California Code of Regulations (CCR) sections 1399.154 through 1399.154.7

5. Discussion and Possible Action Regarding Audiology Licensing Requirements Related to Supervised Clinical and Professional Experience as stated in BPC Sections 2532.2 and 2532.25 and Title 16, CCR section 1399.152.2

6. Adjournment

Upon Adjournment of the Audiology Practice Committee Meeting:

Hearing Aid Dispensing Committee Members

Tod Borges, Hearing Aid Dispenser, Committee Chair
Marcia Raggio, Dispensing Audiologist
Karen Chang, Public Member
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist
VACANT, Hearing Aid Dispenser

Hearing Aid Dispensing Committee Agenda

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. Review, Discussion, and Possible Action on Regulations Regarding Hearing Aid Dispensing Trainees as stated in Title 16, California Code of Regulations (CCR) sections 1399.114 through 1399.119

4. Review, Discussion, and Possible Action on Regulations Regarding Hearing Aid Dispenser Advertising Requirements as stated in Title 16 CCR section 1399.127

5. Adjournment

Upon Adjournment of the Hearing Aid Dispensing Committee Meeting or Friday, October 28, 2022:

Board Members

Marcia Raggio, Dispensing Audiologist, Board Chair
Holly Kaiser, Speech-Language Pathologist, Vice Chair
Tod Borges, Hearing Aid Dispenser
Karen Chang, Public Member
Gilda Dominguez, Speech-Language Pathologist
Debbie Snow, Public Member
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist
VACANT, Hearing Aid Dispenser

Full Board Meeting Agenda

OPEN SESSION

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. Acknowledgement of Ms. Debbie Snow's Service to the Board

4. Review and Possible Approval of the August 11-12, 2022, Board Meeting Minutes

5. DCA Update – DCA Board and Bureau Relations

6. Board Chair's Report
   a. 2022 Board and Committee Meeting Calendar
   b. Board Committee Updates and Committee Reports
      i. Enforcement Ad Hoc Committee
      ii. Audiology Practice Committee
      iii. Hearing Aid Dispensing Committee

7. Executive Officer's Report
    a. Administration Update
    b. Outreach Update
    c. Budget Report
    d. Regulations Report
    e. Licensing Report
    f. Practical Examination Report
    g. Enforcement Report

8. Update on the Board's Business Modernization Project and Upcoming Releases of Online Applications for Licensure

9. Update and Discussion Regarding the Board's Strategic Plan and Governor Newsom's Executive Order N-16-22

10. Discussion and Possible Action Regarding U.S. Food and Drug Administration Final Rule on Medical Devices; Ear, Nose and Throat Devices; Establishing Over-the-Counter Hearing Aids

11. Discussion and Possible Action Regarding Foreign Body in the Ear Canal as stated in Business and Professions Code section 2538.36

BREAK FOR LUNCH (TIME APPROXIMATE)

12. Overview and Discussion on the Need for a New License Type for Audiology Assistants Under the Board's Regulation

13. Update and Discussion Regarding the Board's 2022 Sunset Review and Implementation of the Board's Sunset Bill, Assembly Bill (AB) 2686

14. Legislative Report: Update, Review, and Possible Action on Proposed Legislation
    a. Legislative Calendar and Deadlines
    b. Bills with Active Positions Taken by the Board
        i. AB 29 (Cooper) State bodies: meetings
        ii. AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses
        iii. AB 555 (Lackey) Special education: assistive technology devices
        iv. AB 885 (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
        v. AB 1026 (Smith) Business licenses: veterans
        vi. AB 1361 (Rubio) Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates
        vii. AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal conviction
        viii. AB 1733 (Quirk) State bodies: open meetings
        ix. AB 2686 (Berman) Speech-language pathologists, audiologists, and hearing aid dispensers
        x. AB 2806 (Rubio) Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates
        xi. SB 772 (Ochoa Bogh) Professions and vocations: citations: minor violations
        xii. SB 1031 (Ochoa Bogh) Healing arts boards: inactive license fees
        xiii. SB 1453 (Ochoa Bogh) Speech language pathologists
    c. Bills with Recommended Watch Status
        i. AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions
        ii. AB 1236 (Ting) Healing arts: licensees: data collection
        iii. AB 1308 (Ting) Arrest and conviction record relief

iv. AB 1498 (Low) Members of boards within the Department of Consumer Affairs: per diem
v. AB 1795 (Fong) Open meetings: remote participation
vi. AB 2600 (Dahle) State agencies: letters and notices: requirements
vii. AB 2790 (Wicks) Reporting of crimes: mandated reporters
viii. SB 731 (Durazo) Criminal records: relief
ix. SB 1237 (Newman) Licenses: military service
x. SB 1365 (Jones) Licensing boards: procedures

15. Discussion and Possible Action to Adopt Omnibus Legislative Proposal Regarding Gendered Pronouns in Business and Professions Code sections 2530.3, 2532, 2532.5, 2535.4, 2537.3, 2538.20, 2538.21, 2538.27, 2538.28, 2538.30, 2538.32, 2538.33, 2538.34, 2538.36, 2538.40, 2538.49, 2538.50, 2538.51, 2538.56, 2539.1, and 2539.6

16. Legislative Items for Future Meeting (The Board May Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such Items Should be on a Future Board Meeting Agenda and/or Whether to Hold a Special Meeting of the Board to Discuss Such Items Pursuant to Government Code section 11125.4)

17. Regulatory Report: Update, Review, and Possible Action on Board Regulation Packages
    a. Discussion and Possible Action to Amend Regulations Regarding Speech-Language Pathology Assistant (SLPA) Supervision Requirements as stated in Title 16, CCR sections 1399.170, 1399.170.2, and 1399.170.15 through 1399.170.18
    b. Discussion and Possible Action to Amend and Adopt Regulations Regarding Uniform Standards Related to Substance-Abusing Licensees as stated in Title 16, CCR sections 1399.102, 1399.131, 1399.131.1, 1399.155, and 1399.155.1
    c. Discussion and Possible Action to Amend Regulations Regarding Required Professional Experience Direct Supervision Requirements and Tele-Supervision as stated in Title 16, CCR sections 1399.153 and 1399.153.3
    d. Discussion and Possible Action to Amend and Adopt Regulations Regarding Examination Requirements for Hearing Aid Dispensers and Dispensing Audiologists as stated in Title 16, CCR sections 1399.120, 1399.121, 1399.122, and 1399.152.4
    e. Discussion and Possible Action to Amend Regulations Regarding Continuing Professional Development Requirements for Speech-Language Pathologists and Audiologists as stated in Title 16, CCR sections 1399.160 through 1399.160.4
    f. Discussion and Possible Action to Adopt Regulations Regarding Notice to Consumers as stated in Title 16, CCR sections 1399.129 and 1399.157.1
    g. Discussion and Possible Action to Amend and Adopt Regulations Regarding Fingerprinting Requirements as stated in Title 16, CCR sections 1399.112, 1399.151.2, and 1399.170.14
    h. Discussion and Possible Action to Amend Regulations Regarding Continuing Education Requirements for Hearing Aid Dispensers as stated in Title 16, CCR sections 1399.140, 1399.140.1, and 1399.144
    i. Discussion and Possible Action to Amend Regulations Regarding SLPA Application and Board Processing Times as stated in Title 16, CCR sections 1399.113, 1399.151.1, 1399.160.6, and 1399.170.13
    j. Discussion and Possible Action to Amend Regulations Regarding SLPA Program and Academic Requirements as stated in Title 16, CCR sections 1399.170.4, 1399.170.10, and 1399.170.11

18. Discussion and Possible Action to Revise the Board's Administrative Procedure Manual

19. Election of Board Officers

20. Future Agenda Items and Potential Dates for Board Meetings in 2023

CLOSED SESSION

21. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session to Discuss Disciplinary Matters Including Proposed Decisions, Stipulated Decisions, Defaults, Petitions for Reductions in Penalty, Petitions for Reconsideration, and Remands.

22. Pursuant to Government Code Section 11126(a)(1), the Board will Meet in Closed Session to Conduct the Annual Performance Evaluation of its Executive Officer.

OPEN SESSION

23. 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. 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) 287-7915 or making a written request to Cherise Burns, Assistant Executive Officer, 1601 Response Road, Suite 260, Sacramento, California 95815. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

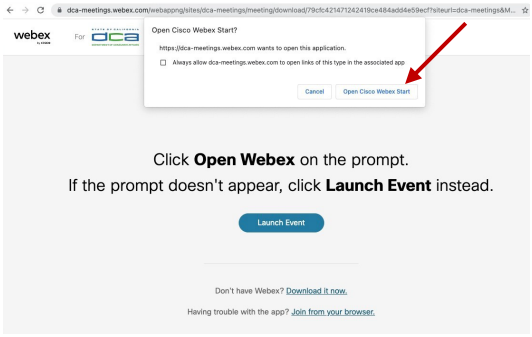
Webex Public Access Guide

Getting Connected

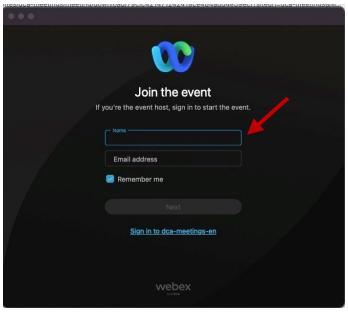
If joining using the meeting link

1. Click on the meeting link. This can be found in the meeting notice you received.

2. If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented. DO NOT click "Join from your browser", as you will not be able to participate during the meeting.



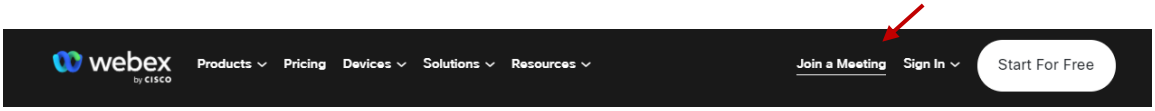
3. Enter your name and email address.
Click "Join as a guest" .
Accept any request for permission to use your microphone and/or camera.



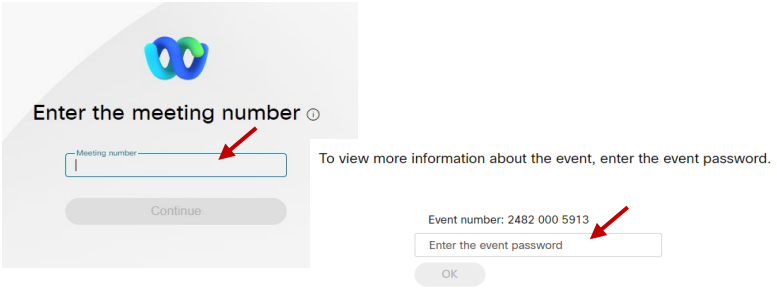
OR

If joining from Webex.com

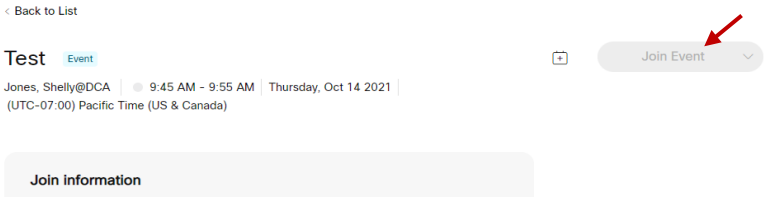
1. Click on "Join a Meeting" at the top of the Webex window.



2. Enter the meeting/event number and click "Continue" . Enter the event password and click "OK" . This can be found in the meeting notice you received.



3. The meeting information will be displayed. Click "Join Event" .



OR

Connect via telephone*:

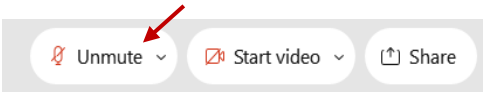
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

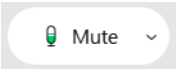
Webex Public Access Guide

Audio

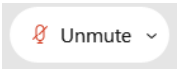
Microphone

Microphone control (mute/unmute button) is located on the command row.





Green microphone = Unmuted: People in the meeting can hear you.

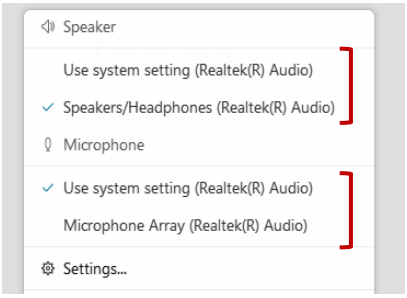


Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".

If you cannot hear or be heard

1. Click on the bottom facing arrow located on the Mute/Unmute button.

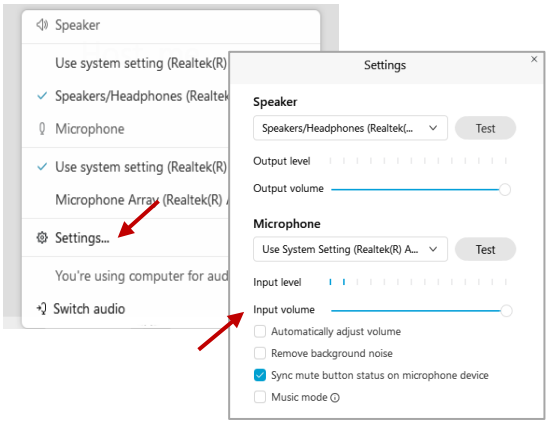


2. From the pop-up window, select a different:
   - Microphone option if participants can't hear you.
   - Speaker option if you can't hear participants.

If your microphone volume is too low or too high

1. Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.

2. From the pop-up window:
   - Click on "Settings…":
   - Drag the "Input Volume" located under microphone settings to adjust your volume.



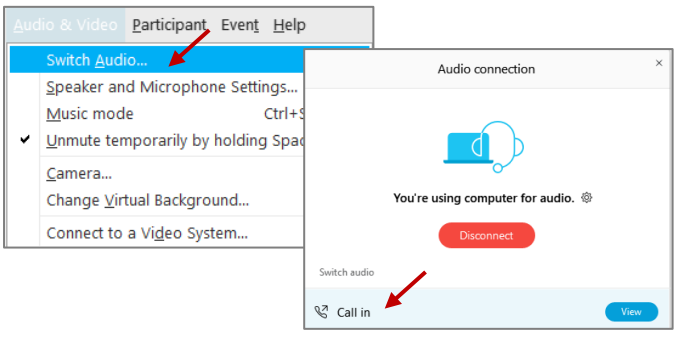
Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through Webex. Your phone will then become your audio source during the meeting.

1. Click on "Audio & Video" from the menu bar.

2. Select "Switch Audio" from the drop-down menu.

3. Select the "Call In" option and following the directions.



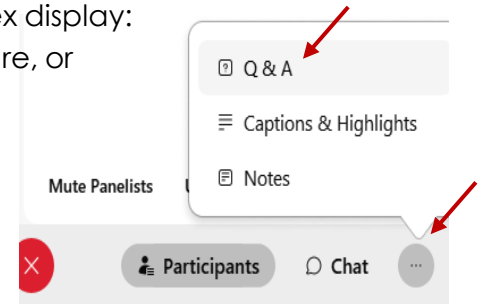
Webex Public Access Guide

Public Comment

The question-and-answer feature (Q&A) is utilized for questions or comments. Upon direction of the meeting facilitator, the moderator will open the Q&A panel for meeting participants to submit questions or comments. *NOTE: This feature is not accessible to those joining the meeting via telephone.*

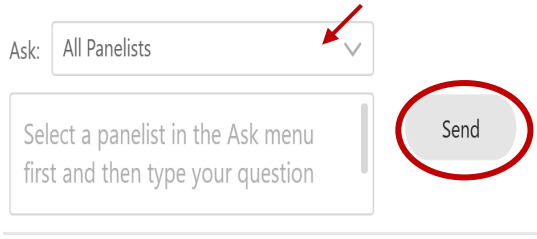
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a "?" inside of a square, or
- Click on the 3 dots and select "Q&A".



2 In the text box:

- Select "All Panelists" in the dropdown menu,
- Type your question/comment into the text box, and
- Click "Send".



OR

If connected via telephone:

- Utilize the raise hand feature by pressing *6 to raise your hand.
- Repeat this process to lower your hand.

3 The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

OR

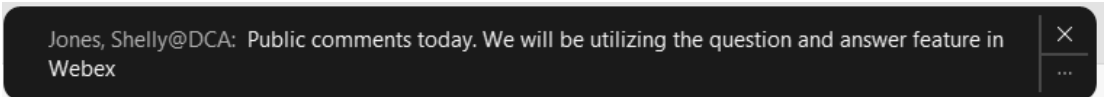
If connected via telephone:

- Press *3 to unmute your microphone.

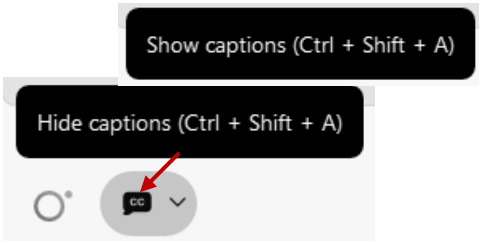
Webex Public Access Guide

Closed Captioning

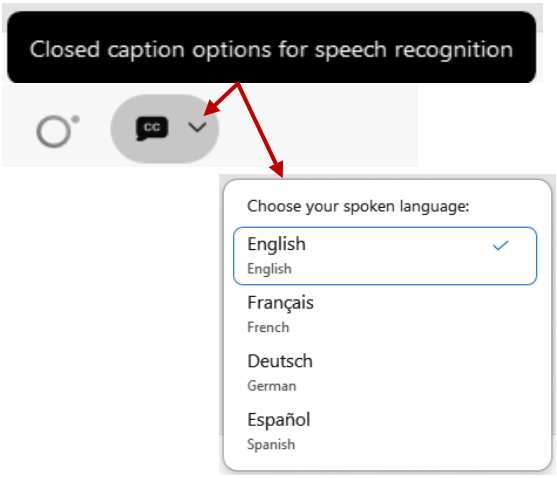
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



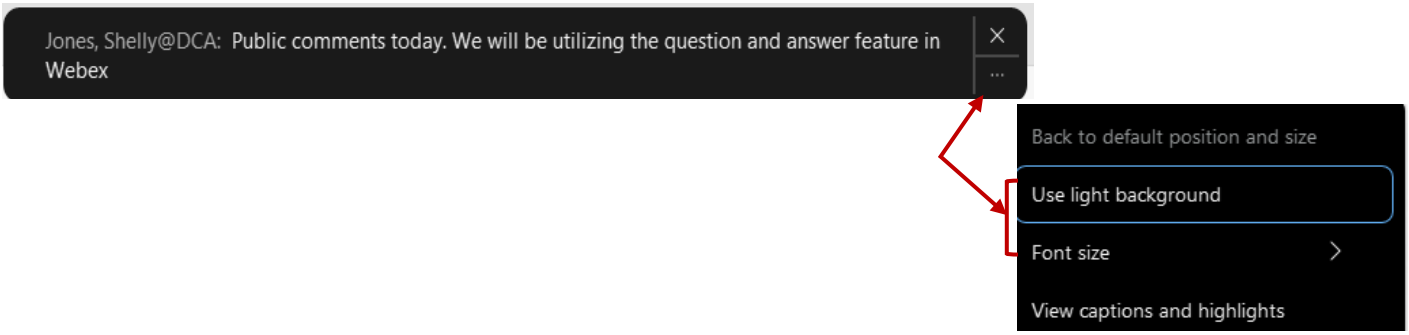
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.



Hand Carry Item

AU Agenda Item 3:

Review and Possible Approval of the September 23, 2020, Audiology Practice Committee Meeting

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
1601 Response Road, Suite 260, Sacramento, CA 95815
P (916) 287-7915 | www.speechandhearing.ca.gov

MEMORANDUM

DATE	October 19, 2022
TO	Audiology Practice Committee
FROM	Marcia Raggio, Chair
SUBJECT	Agenda Item 3: Discussion and Possible Action Regarding Statutory and/or Regulatory Requirements Related to Audiology Aide Scope of Practice and Supervision Requirements as stated in BPC section 2530.2 and Title 16, CCR section 1399.154 through 1399.154.7

Background

The Board has received reports that there is a lack of clarity regarding appropriate clinical tasks and supervision requirements for Audiology Aides. Supervisors have expressed concern that either Audiology Aides were being allowed to perform any and all clinical services normally provided by an Audiologist without the training or education of an Audiologist; or, supervision requirements were so strict that there was little point in utilizing an aide. In some cases, Audiology Aides have been reportedly trained to a level that a supervisor considers to be "competent" for a particular clinical task and then left to perform that task independently without supervision from a supervisor who is physically present. Reports of these types of misapplication of the regulations for Audiology Aides led to the Board discussing this issue at the October 10-11, 2019.

At the October 10-11, 2019 Board meeting, the Board discussed feedback received from audiology licensees who utilize Audiology Aides, including complaints of ambiguity regarding the regulatory requirements for the clinical tasks allowed to be performed by an Audiology Aide and the type of supervision required for Audiology Aides. The Board then directed the Audiology Practice Committee (Committee) to define the tasks an audiology aide can perform and the supervision necessary, and in addition, consider any legislative or regulatory changes needed toward implementation.

At the February 20, 2020 Audiology Practice Committee (Committee) meeting, the Committee discussed language from the American Academy of Audiology (AAA) and the American Speech-Language-Hearing Association (ASHA) regarding the role of an audiology assistant. The audiology assistant language is more closely aligned with Audiology Aides are in California. The language stated that audiology assistants should be trained to do specific tasks that support the Audiologist without being allowed to make diagnostic decisions.

The Committee discussed concerns regarding whether and when the supervising Audiologist must be physically present because the regulations are unclear. The Committee decided that reviewing the AAA and ASHA lists of tasks recommended or not recommended for audiology assistants would be a good starting point to engage stakeholders in the development of a regulatory package (Note: these lists and associated materials have been updated since 2020). Board Staff brought to the Committee's attention that any regulatory package needed to explain why a particular task would be outside of the scope of responsibilities of an Audiology Aide and

that it might be more effective to develop different levels of supervision requirements for Audiology Aides similar to the Speech-Language Pathology Assistant (SLPA) regulations. The Committee also discussed its concern that both AAA and ASHA recommend these individuals complete continuing education requirements, but understood that under current statute, that the Audiology Aide in California is a one-time registration with no renewal requirement or continuing education requirement, and that this issue would have to be addressed as part of the Sunset Review process.

At the February 2020 meeting, the Committee decided to work with staff to use the AAA and ASHA recommendations to help develop a list of tasks and supervision requirements for Audiology Aides for stakeholder consideration at a future meeting.

At the May 2022 meeting, the Committee delegated review of this topic to Dr. Raggio and Dr. White to continue discussions regarding lists of tasks and supervision requirements for Audiology Aides.

Since the May 2022 meeting, Dr. Raggio and Dr. White reviewed the materials on aide duties and various position papers on the issue, along with reviewing the way that Board staff review the current Audiology Aid application duties specified by the supervisor. During these discussions, Dr. Raggio and Dr. White came to the conclusion that a list of allowable tasks would never be exhaustive enough nor be able to keep pace with innovations in the field of audiology to be truly useful. Dr. Raggio and Dr. White then determined it may be more helpful to both the licensed public, applicants, and Board staff to concentrate on duties that were absolutely outside the scope of an Audiology Aide. In addition, they could provide additional clarity in the regulations on the role of the Audiology Aide within an audiology practice and criteria that could clearly delineate what tasks were outside the scope of practice of an Audiology Aide.

Issues for Consideration

Business and Professions Code (BPC) Section 2530.2(m) defines Audiology Aide and authorizes the Board to establish minimum requirements for the registration of an Audiology Aide and BPC Section 2530.6 authorizes the Board to designate requirements related to the extent, kind, and quality of services performed by the aide. Title 16 California Code of Regulations (CCR) section 1399.154 further clarifies the definition of an Audiology Aide "assists or facilitates while an audiologist is evaluating the hearing of individuals and/or is treating individuals with hearing disorders" (see Attachment A).

In light of discussions of the current role of Audiology Aides, the Committee may want to consider the following issues regarding the regulatory definition of an Audiology Aide:

- Should 16 CCR section 1399.154 be revised to better reflect the role and responsibilities an Audiology Aide has within an audiology practice? For example, the American Academy of Audiology (AAA) definition of an audiology assistant seems to be more in line with the duties of a Board licensed Audiology Aide and is defined as "a person who, after appropriate training and demonstration of competency, performs duties and responsibilities that are delegated, directed and supervised by an audiologist." (See Attachment B)

- Should the definition of an Audiology Aide be expanded to define the role of an Audiology Aide within an audiology practice? AAA defines the role to be to "support the

audiologist in performing routine tasks and duties so that the audiologist is available for the more complex evaluative, diagnostic, management and treatment services that require the education and training of a licensed audiologist."

- Should the definition clearly delineate what is outside the scope of an Audiology Aide? AAA also specifies that duties and responsibilities "must be limited to those that do not require professional judgment" and that duties that should not be delegated include "any service requiring professional competence". The Committee may want to add that Aides are not allowed to perform duties that require a separate license from this Board or another licensing board/entity within California in order to perform.

Since BPC Section 2530.6 authorizes the Board to designate requirements related to the extent, kind, and quality of services performed by the aide, the Committee may want to consider the following issues related to the development of regulations related to tasks that cannot be performed by Audiology Aides:

- Should the Board create a regulatory section regarding Activities, Duties, and Functions Outside the Scope of Responsibilities of an Audiology Aide, similar to the regulation for SLPA's in 16 CCR section 1399.170.3. Activities, Duties, and Functions Outside the Scope of Responsibilities of a Speech-Language Pathology Assistant. (See Attachment C)

- Should the language of prohibitions be broad enough to cover future developments within the field of audiology? For example: An Audiology Aide may not perform tasks or activities that violate any of the following criteria:
    - The task or activity requires a separate license or registration from the Board, or another licensing board, bureau, or entity in order to perform. This includes the practice of fitting and selling hearing aids as defined in BPC Section 2538.11 without acquiring the appropriate license from the Board.
    - The task or activity requires professional competence and involves interpretation of test results or the diagnosis of hearing disorders, involves management and treatment services, performance of therapies or counseling related to a hearing disorder, or making any decisions related to the treatment, discharge or referral of a client.
    - The task or activity has a high risk of client harm and requires a high level of clinical education, skill, and competence beyond the scope of an Audiology Aide.
    - The task or activity requires a level of training and skill that the Audiology Aide has not received, and which is not documented with the Board, or that the Audiology Aide has not been able to consistently demonstrate competence in.
    - The task or activity includes the supervision of any hearing screening program.

The Board has the authority to define levels of supervision for Audiology Aides similar to how the SLPA supervision requirements are defined. For example, SLPAs have three broad levels of supervision that range from Immediate (physically present in the room), Direct (on-site), and Indirect (not on-site), and detail what duties require specified levels of supervision or when the duties require a higher level of supervision. The Committee may want to consider the following issues related to the development of regulations related to supervision of Audiology Aides:

- Should the Board revise the regulatory sections regarding supervision of an Audiology Aide to define levels of supervision, such as immediate, direct and indirect? This could be similar to the regulation for SLPA's in 16 CCR section 1399.170 Definitions (See Attachment C).

- Should the Board revise the regulatory sections regarding supervision of an Audiology Aide to define the types of tasks and activities performed at different levels of supervision and whether supervision level can change after a time of training and competence assessment. This could be similar to the regulation for SLPA's in 16 CCR section 1399.170.2 Types of Supervision Required for Duties Performed by a Speech-Language Pathology Assistant (See Attachment C). Note that SLPAs have a higher level of clinical education and fieldwork required for licensure than what is required of an Aide, but it does provide examples of SLPA tasks and activities allowed under the specified supervision levels that help give context but does not create the problems an exhaustive list of tasks at each level of supervision.

Lastly, as part of the Board's Sunset Review process, the Board created a biennial renewal requirement for Audiology Aides. Starting in July of 2023, the Board will implement the renewal requirements below:

BPC Section 2530.6 (d-e)
(d) A speech-language pathology and audiology aide registration shall expire every two years and is subject to the renewal requirements in Article 6 (commencing with Section 2535).
(e) At the time of registration renewal, the speech-language pathologist or audiologist supervising the speech-language pathology or audiology aide shall update the board on the duties the aide performs while assisting the supervisor in the practice of speech-language pathology or audiology, and the training program and assessment methods the supervisor is utilizing to ensure the aide's continued competency.

The Committee may want to consider whether there is any need to further clarify the renewal requirements for Audiology Aides including the issues below:

- Is there a need for the Board to clarify what are acceptable methods for training programs for Audiology Aides and/or assessment methods of the Audiology Aide's continued competency?
    - For example, should all or some of the following trainings be allowed: state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these hearing and audiological disorders?
    - For example, are there best practice assessment methods or nationally accepted assessment models for audiology support personnel? Should assessments be performed on an annual basis or only at renewal?
- Should the supervising Audiologist certify on the renewal that the Audiology Aide is competent to perform the duties specified in the renewal?

Action Requested
Staff recommends the Audiology Practice Committee discuss the above issues for consideration with stakeholders so that the Audiology Practice Committee can determine the direction of modifications or additions to the regulatory sections related to Audiology Aides,

and direct staff to start preliminary meetings with DCA Legal staff to start work on drafting changes to the provisions related to Audiology Aides for consideration in a future meeting.

Attachment A: Statutory and Regulatory Requirements Related to Audiology Aide Scope of Practice and Supervision
Attachment B: American Academy of Audiology Position Paper Audiology Assistants
Attachment C: SLPA Regulations Related to SLPA Supervision, Scope of Responsibilities, and Renewal

Statutory and Regulatory Requirements Related to Audiology Aide Scope and Supervision

Business and Professions Code

Section 2530.2(m) (as of January 1, 2023)

(m) “Audiology aide” means any person meeting the minimum requirements established by the board who works directly under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that their employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

Section 2530.6 (as of January 1, 2023)

(a) Speech-language pathologists and audiologists supervising speech-language pathology or audiology aides shall register with the board the name of each aide working under their supervision.

(b) The number of aides who may be supervised by a licensee shall be determined by the board.

The supervising audiologist or speech-language pathologist shall be responsible for the extent, kind, and quality of services performed by the aide, consistent with the board’s designated standards and requirements.

(d) A speech-language pathology and audiology aide registration shall expire every two years and is subject to the renewal requirements in Article 6 (commencing with Section 2535).

(e) At the time of registration renewal, the speech-language pathologist or audiologist supervising the speech-language pathology or audiology aide shall update the board on the duties the aide performs while assisting the supervisor in the practice of speech-language pathology or audiology, and the training program and assessment methods the supervisor is utilizing to ensure the aide’s continued competency.

Section 2535

(a) All licenses issued as of January 1, 1992, shall expire at 12 a.m. of the last date of the birth month of the licensee during the second year of a two-year term if not renewed.

(b) All licenses issued under this chapter, except those licenses issued pursuant to subdivision (a), shall expire at 12 a.m. of the last date of the birth month of the licensee during the second year of a two-year term, if not renewed.

(c) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.

Section 2538.11

(a) “Practice of fitting or selling hearing aids,” as used in this article, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

The practice of fitting or selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of the audiometer or other equipment shall be checked at least annually.

(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the practice of fitting or selling hearing aids.

(c) Hearing tests conducted pursuant to this article shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the board.

Section 2538.20

It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the board under the provisions of this article. Nothing in this article shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this article. …

Section 2539.1

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

(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).

(b) (1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist’s license to sell hearing aids, the board shall issue him or her a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser’s license from maintaining dual or separate licenses if he or she chooses to do so.

(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

(c) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.

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

Title 16 California Code of Regulations (CCR)

Section 1399.154. Definitions.

As used in this article, the term:

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

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

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

(b) "Audiology aide" means a person who

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

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

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

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

Section 1399.154.1. Registration of Aides.

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

article and notify the supervisor of its disposition of the application for registration and whether further information is required in order to complete its review.

1399.154.2. Responsibilities of Aide's Supervisor.

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

(a) Have legal responsibility for the health, safety and welfare of the patients.

(b) Have legal responsibility for the acts and services provided by the speech-language pathology or audiology aide, including compliance with the provisions of the Act and these regulations.

(c) Be physically present while the speech-language pathology or audiology aide is assisting with patients, unless an alternative plan of supervision has been approved by the Board. A supervisor of industrial audiology aides shall include a proposed plan for alternative supervision with the application form. An industrial audiology aide may only be authorized to conduct puretone air conduction threshold audiograms when performing outside the physical presence of a supervisor. The supervisor shall review the patient histories and the audiograms and make necessary referrals for evaluation and treatment.

(d) Evaluate, treat, manage and determine the future dispositions of patients.

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

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

1399.154.3. Maximum Number of Aides.

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

1399.154.4. Training of Aides.

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

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

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

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

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

1399.154.5. Notice of Termination.

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

1399.154.6. Noncompliance with Article.

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

1399.154.7. Aide Experience Not Applicable to Qualifications for Licensure.

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

Current SLPA Statutory and Regulations Provisions Related to SLPA Supervision and Scope of Responsibilities

Business and Professions Code Section 2538.1(b)(4)

(b) The board shall adopt regulations as reasonably necessary to carry out the purposes of this article, that shall include, but need not be limited to, the following:
(4) The scope of responsibility, duties, and functions of speech-language pathology assistants, that shall include, but not be limited to, all of the following:
(A) Conducting speech-language screening, without interpretation, and using screening protocols developed by the supervising speech-language pathologist.
(B) Providing direct treatment assistance to patients or clients under the supervision of a speech-language pathologist.
(C) Following and implementing documented treatment plans or protocols developed by a supervising speech-language pathologist.
(D) Documenting patient or client progress toward meeting established objectives, and reporting the information to a supervising speech-language pathologist.
(E) Assisting a speech-language pathologist during assessments, including, but not limited to, assisting with formal documentation, preparing materials, and performing clerical duties for a supervising speech-language pathologist.
(F) When competent to do so, as determined by the supervising speech-language pathologist, acting as an interpreter for non-English-speaking patients or clients and their family members.
(G) Scheduling activities and preparing charts, records, graphs, and data.
(H) Performing checks and maintenance of equipment, including, but not limited to, augmentative communication devices.
(I) Assisting with speech-language pathology research projects, in-service training, and family or community education.
The regulations shall provide that speech-language pathology assistants are not authorized to conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist.

16 CCR § 1399.170 Definitions.

As used in this article:
(a) “Accountability” means being legally responsible and answerable for actions and inactions of self or others during the performance of a task by the speech-language pathology assistant.
(b) “Client” shall have the same meaning and effect as the term “patient” and “student,” when referring to services provided in a school setting, for purposes of interpreting the provisions in this Article.
(c) “Direct supervision” means on-site observation and guidance by the supervising speech-language pathologist while a clinical activity is performed by the speech-language pathology assistant. Direct supervision performed by the supervising speech-language pathologist may include, but is not limited to, the following: observation of a portion of the screening or treatment procedures performed by the speech-language pathology assistant, coaching the speech-language pathology assistant, and modeling for the assistant.
(d) “Immediate supervision” means the supervising speech-language pathologist is physically present during services provided to the client by the speech-language pathology assistant.
(e) “Indirect supervision” means the supervising speech-language pathologist is not at the same facility or in close proximity to the speech-language pathology assistant, but is available to

provide supervision by electronic means. Indirect supervision activities performed by the supervising speech-language pathologist may include, but are not limited to, demonstration, record review, review and evaluation of audio or video-taped sessions, interactive television, and supervisory conferences that may be conducted by telephone or electronic mail.
(f) “Medically fragile” is the term used to describe a client that is acutely ill and in an unstable condition and if treated by a speech-language pathology assistant, immediate supervision by a speech-language pathologist is required.
(g) “Screening” is a pass-fail procedure to identify, without interpretation, clients who may require further assessment following specified screening protocols developed by the supervising speech-language pathologist.
(h) “Supervision” for the purposes of this article, means the provision of direction and evaluation of the tasks assigned to a speech-language pathology assistant. Methods for providing supervision include direct supervision, immediate supervision, and indirect supervision.
(i) “Support personnel” means individuals who, following academic and/or on-the-job training, perform tasks as prescribed, directed and supervised by a speech-language pathologist. There are different levels of support personnel based on training and scope of responsibilities.

16 CCR § 1399.170.2 Types of Supervision Required for Duties Performed by a Speech-Language Pathology Assistant.

(a) Duties performed by the speech-language pathology assistant that require immediate supervision may include, but are not limited to, any direct client activity involving medically fragile patients. In such instances, the speech-language pathology assistant shall act only under the direction of the supervisor.
(b) Duties performed by the speech-language pathology assistant that require direct supervision may include, but are not limited to, any new screening or treatment activity that the assistant has been trained to perform by the supervisor, but has not yet been performed by the speech-language pathology assistant in direct client care.
(c) Duties performed by the speech-language pathology assistant that require indirect supervision may include, but are not limited to, the following:
(1) Screening or treatment activities where the supervisor has previously given instructions as to how to perform the task, has observed the assistant in the conduct of these activities, and is satisfied that the activities can be competently performed by the speech-language pathology assistant, i.e., repetitive drill exercises, generalization or carryover activities;
(2) Clerical tasks such as record keeping, materials preparation, scheduling, equipment maintenance; and,
(3) Other non-client care activities.

16 CCR § 1399.170.3 Activities, Duties, and Functions Outside the Scope of Responsibilities of a Speech-Language Pathology Assistant.

A speech-language pathology assistant may not conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist. The speech-language pathology assistant may not perform any of the following functions:
(a) Participate in parent conferences, case conferences, or inter-disciplinary team conferences without the supervising speech-language pathologist or another speech-language pathologist being present;

(b) Provide counseling or advice to a client or a client's parent or guardian which is beyond the scope of the client's treatment;
(c) Sign any documents in lieu of the supervising speech-language pathologist, i.e., treatment plans, client reimbursement forms, or formal reports;
(d) Discharge clients from services;
(e) Make referrals for additional services;
(f) Unless required by law, disclose confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist;
(g) Represent himself or herself as a speech-language pathologist; and,
(h) Perform procedures that require a high level of clinical acumen and technical skill, i.e., vocal tract prosthesis shaping or fitting, vocal tract imaging, and oropharyngeal swallow therapy with bolus material.

16 CCR § 1399.170.14. Requirements for Renewal.

When applying for renewal, a speech-language pathology assistant shall certify in writing, by signing a statement under penalty of perjury that, during the preceding two years, the speech-language pathology assistant has completed twelve (12) hours of continuing professional development through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication disorders.

Hand Carry Item

AU Agenda Item 5:

Update, Discussion, and Possible Action Regarding Audiology Licensing Requirements Related to Supervised Clinical and Professional Experience as stated in Business and Professions Code Sections 2532.2 and 2532.25 and Title 16, CCR sections 1399.152.2

Hand Carry Item

HAD Agenda Item 3:

Review, Discussion, and Possible Action on Regulations Regarding Hearing Aid Dispensing Trainees as stated in Title 16, California Code of Regulations (CCR) sections 1399.114 through 1399.119

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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MEMORANDUM

DATE	October 12, 2022
TO	Hearing Aid Dispensing Comittee
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 4: Discussion and Possible Action to Amend Regulations Regarding Hearing Aid Dispenser Advertising Requirements as stated in Title 16, CCR section 1399.127

Background

This proposed regulation will revise the Hearing Aid Dispensing (HAD) advertising requirements.

At its August 2022 meeeting, the HAD Committee reviewed previously proposed language and changes from 2017. This agenda item was tabled for further discussion and is being brought before the Committee again.

Summary of Changes

- Subsections (a) and (b) have grammatical corrections and revisions for clarity.
- Subsections (c) and (d) revised for clarity and to remove confusing unneeded language.
- Subsection (e) changed to subsection (d)(7) to increase clarity.
- Susbection (f) becomes subsection (e).
- Subsection (g) is combined with subsection (e) and revised to make the language clearer and reduce redundancy.
- Subsection (f) specifies a retention person for data required in subsection (e).
- Subsection (h) becomes subsection (g), and revised for clarity.

Discussion Questions

1. Do the proposed regulations prevent audiologists from calling themselves doctor without the designation of AUD?

2. Does subsection (d)(4) regarding the advertisement of hearing test need to be clarified?

3. How do consumers verify the accuracy of “dollar amount of the non-discounted fee” or “actual price” listed in an advertisement?

4. How should a national company be held accountable for advertisements that violate the proposed regulations?

5. What educational materials should the Board provide to explain to licensees the correct and incorrect way to advertise under the proposed regulations?

Action Requested

Staff recommends the Committee review and discuss the materials provided. The Committee may wish to determine whether or not to recommend the regulatory language to the Board.

Attachment A:	Proposed changes to HAD Advertising Proposed Language as Adopted on August 11, 2017
Attachment B:	California Code of Regulations § 1399.127. Advertising.
Attachment C:	Advertising For Hearing Aid Dispensers Webpage
Attachment D:	Statutory Requirements Regarding Hearing Test/Screening

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

PROPOSED REGULATORY LANGUAGE
HAD Advertising

Legend:	Added text is indicated with an underline. Omitted text is indicated by (* * * *) Deleted text is indicated by ~~strikeout~~.

Amend Section 1399.127 of Article 5 of Division 13.3 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.127. Advertising.

(a) A person licensed to dispense hearing ~~aid dispenser~~aids may advertise ~~any goods~~the fitting and selling of hearing aids or services ~~authorized to be provided by such~~allowed by the license in ~~a~~the manner authorized by Section 651 of the ~~Business and Professions~~ Code and this Section ~~so~~as long as ~~such~~the advertising does not promote the unnecessary ~~or excessive~~ use of such goods ~~or~~and/or services.

(b) An advertisement ~~violates~~for fitting and selling hearing aids and/or other authorized services is ~~false, fraudulent misleading, or deceptive~~ in violation of ~~Business and Professions Code~~ Section 651 of the Code ~~when~~if it violates any provision of Article 8, Chapter 5.3 of Division 2 of the Code, beginning with Section 2538.10:

~~(1) Is not exact, and any conditions or other variables to an advertised price are not disclosed.~~

~~(2) Includes a statement of price comparison that is not based upon verifiable data.~~

~~(3) Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.~~

~~When advertising a specific hearing aid model:~~

~~Correct:~~	~~50% off Acme Model 12~~
~~Regularly $1000, Now $500~~	
~~Incorrect:~~	~~50% off Acme hearing aid~~

~~When advertising a category of hearing aids (e.g. all models from one manufacturer, or all BTE models):~~

~~Correct:~~	~~50% off Manufacturer's Suggested Retail Price~~
~~All Acme Hearing Aids~~	
~~Incorrect:~~	~~Acme Hearing Aids - 50% Off~~
~~Correct:~~	~~50% off Manufacturer's Suggested Retail Price, All Hearing Aids Offer good January 1-7, 1998 (or Offer expires January 7, 1998)~~
~~Incorrect:~~	~~50% off Manufacturer's Suggested Retail Price, All Hearing Aids~~

~~(4) Utilizes a business name that is so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.~~

~~Correct:~~	~~Delta Hearing Aid Center~~
~~Incorrect:~~	~~Delta Hearing Center~~

~~(5) Advertises hearing tests without qualification as to the nature of the hearing testing that may be performed by a hearing aid dispenser.~~

~~Correct:~~	~~Test to determine if you could be helped by a hearing aid~~
~~Incorrect:~~	~~Hearing test~~

~~(6) Includes sending to a consumer preset appointment information or "rebate coupons" that resemble checks as part of a direct mail solicitation.~~

~~(7) Includes an educational degree but does not list the degree and field, or includes the title "Dr." where the degree is a non-medical doctorate and the advertisement does not disclose that fact.~~

~~Correct:~~	~~John Doe, Ph.D. in Audiology~~	~~Jane Doe, M.A. in Audiology~~
	~~John Doe, Ph.D. (Audiology)~~	~~Jack Doe, B.A. (Audiology)~~
~~Incorrect:~~	~~Dr. John Doe~~	~~Jane Doe, M.A.~~
	~~Dr. John Doe (Audiology)~~	~~Jack Doe, B.A.~~

~~(8) Includes abbreviations for job titles or job certifications as letters after a name where those letters do not represent an academic degree or credential.~~

~~(9) Refers to a dispenser's certification by a professional organization but either does not include the name of the certifying organization or, includes the name written in a manner not easily understood by consumers.~~

~~Correct:~~	~~John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx~~
~~NB-HIS, Certified by the National Board of Certification in Hearing Instrument Sciences~~	

~~Incorrect:~~	~~John Doe, NB-HIS~~

~~(10) Includes the term "specialist" when referencing licensure without including the title "hearing aid dispenser."~~

~~Correct:~~	~~Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx~~
~~Jack Doe, Licensed Hearing Aid Dispenser~~	
~~John Doe, Hearing Instrument Specialist~~	
~~Hearing Aid Dispenser Lic. No. HA-xxxx~~	
~~Incorrect:~~	~~Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx~~
~~Jack Doe, Licensed Hearing Aid Specialist~~	

(c) Advertising for fitting and selling hearing aids by a person licensed to dispense hearing aids ~~for the purpose of fitting and selling hearing aids or other authorized services~~ shall include the following information:

(1) The name and established retail business address(es) of the hearing aid dispenser registered with the Board pursuant to Section 2538.35 of the Code or dispensing audiologist as required by Section 2539.4 of the Code.

(2) The license number of the person licensed to dispense hearing aids, including the letters HA (Hearing Aid Dispenser), HTL (Temporary License), HT (Trainee), or AU (Dispensing Audiologist), as appropriate.

(d) In addition to ~~any false, fraudulent, misleading, or deceptive statements, claims, or~~ advertisement for fitting and selling hearing aids shall not include:

(1) An educational degree that was not earned and does not specify the exact degree and field in which the degree was earned.

(2) Other than for a physician or surgeon licensed in this state, the title ~~Dr.~~ "doctor" or any variation of this term without specifying the exact field in which the doctoral degree was earned.

(3) A job title or dispenser's certification by a professional organization that is not clearly identified by the full job title or certification and name of the certifying organization.

(4) An offer to perform a hearing test that does not clearly state that the test is being performed in order to fit and sell a hearing aid. An offer for authorized services as part of a research and/or field study does not violate this section if no selling of a hearing aid occurs following the research or study.

(5) Any description of services that are required to be performed by a licensed audiologist unless there is a licensed audiologist registered at the advertised address to perform those services.

(6) Preset appointment information when the consumer has not requested such an appointment.

(~~e~~7) The use of rebate coupons or rebate checks without informing the consumer discounts or sales that are currently available on that device ~~shall constitute false, fraudulent misleading, or deceptive advertisement~~.

(~~f~~e) Any advertisement shall fully disclose any and all additional charges.

~~(g) An advertisement of price shall not be used to entice the consumer into a more costly transaction than the advertised item or service at the advertised price.~~ An advertisement for price that uses a price comparison shall be based on verifiable data and contains the following~~. The licensee shall retain such data for one year after the advertisement is published or disseminated. An advertisement that offers a price discount shall~~:

(1) ~~List t~~The dollar amount of the non-discounted fee for the specific hearing aid or provide consumers with a method to ascertain the actual price;

(2) ~~Inform the public of t~~The dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer; and

(3) ~~Inform the specific group who qualifies for the discount of a~~Any other terms.

(f) The licensee shall retain the data required in subsection (e) for one year after the

(~~c~~hg) Any national advertisement run in California shall comply with California laws and

(1) ~~Exempt from said~~ The advertising described in subsection (g) is exempt from

(2) A person licensed to dispense hearing aids is subject to discipline or enforcement action for sales resulting from a national advertisement that violates this section.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 651, 651.3 and ~~2533~~2538.10, Business and Professions Code.

§ 1399.127. Advertising.
16 CA ADC § 1399.127Barclays Official California Code of Regulations

Barclays California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 13.3. Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board of the Department of Consumer Affairs
Article 5. Miscellaneous

16 CCR § 1399.127

§ 1399.127. Advertising.

Currentness

(a) A licensed hearing aid dispenser may advertise any goods or services authorized to be provided by such license in a manner authorized by Section 651 of the Code so long as such advertising does not promote the unnecessary or excessive use of such goods or services.

(b) An advertisement violates Section 651 of the Code when it:

(1) Is not exact, and any conditions or other variables to an advertised price are not disclosed.

(2) Includes a statement of price comparison that is not based upon verifiable data.

(3) Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.

When advertising a specific hearing aid model:

Correct:	50% off Acme Model 12
Regularly $1000, Now $500	
Incorrect:	50% off Acme hearing aid

When advertising a category of hearing aids (e.g. all models from one manufacturer, or all BTE models):

Correct:	50% off Manufacturer's Suggested Retail Price
All Acme Hearing Aids	
Incorrect:	Acme Hearing Aids--50% Off
Correct:50% off Manufacturer's Suggested Retail Price, All Hearing Aids Offer good January 1-7, 1998 (or Offer expires January 7, 1998)	
Incorrect:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids

(4) Utilizes a business name that is so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.

Correct:	Delta Hearing Aid Center
Incorrect:	Delta Hearing Center

(5) Advertises hearing tests without qualification as to the nature of the hearing testing that may be performed by a hearing aid dispenser.

Correct:	Test to determine if you could be helped by a hearing aid
Incorrect:	Hearing test

(6) Includes sending to a consumer preset appointment information or “rebate coupons” that resemble checks as part of a direct mail solicitation.

(7) Includes an educational degree but does not list the degree and field, or includes the title “Dr.” where the degree is a non-medical doctorate and the advertisement does not disclose that fact.

Correct:	John Doe, Ph.D. in Audiology	Jane Doe, M.A. in Audiology
	John Doe, Ph.D. (Audiology)	Jack Doe, B.A. (Audiology)
Incorrect:	Dr. John Doe	Jane Doe, M.A.
	Dr. John Doe (Audiology)	Jack Doe, B.A.

(8) Includes abbreviations for job titles or job certifications as letters after a name where those letters do not represent an academic degree or credential.

(9) Refers to a dispenser's certification by a professional organization but either does not include the name of the certifying organization or, includes the name written in a manner not easily understood by consumers.

Correct:	John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
NB-HIS, Certified by the National Board of Certification in Hearing Instrument Sciences	
Incorrect:	John Doe, NB-HIS

(10) Includes the term “specialist” when referencing licensure without including the title “hearing aid dispenser.”

Correct:	Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Dispenser	
John Doe, Hearing Instrument Specialist	
Hearing Aid Dispenser Lic. No. HA-xxxx	
Incorrect:	Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Specialist	

(c) Any national advertisement run in California shall comply with California laws and regulations.

Credits

NOTE: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 651, 651.3 and 2533, Business and Professions Code.

HISTORY

1. New section filed 4-10-80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment designating first paragraph as subsection (a), adopting new subsections (b)-(c), and amending NOTE filed 3-10-2000; operative 4-9-2000 (Register 2000, No. 10).
3. Change without regulatory effect amending subsections (a) and (b) and amending NOTE filed 10-28-2015 pursuant to section 100, title 1, California Code of Regulations (Register 2015, No. 44).

This database is current through 10/7/22 Register 2022, No. 40.
Cal. Admin. Code tit. 16, § 1399.127, 16 CA ADC § 1399.127

Available online at
https://govt.westlaw.com/calregs/Document/IEBDAA5F34C8111EC89E5000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

Advertising For Hearing Aid Dispensers

Sections 651, 3301, 3401(f), and 3428 of the California Business and Professions Code and Section 1399.127 of Title 16 of the California Code of Regulations address advertising issues. This summary of the applicable laws and regulations are presented as a guideline to help dispensers understand the law. Any dispenser who violates Section 651 is guilty of a misdemeanor. Violation of any of these sections of the law constitutes cause for license denial, revocation or suspension, or other disciplinary action.

Advertising and Public Communication Defined

- Section 3301 of the Business and Professions Code states that advertising includes the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio or television announcement, or any other method used to call attention to the practice of fitting or selling of hearing aids.
- Section 651 of the Business and Professions Code states that "public communication" includes, but is not limited to, communication by mail television, radio, motion picture, newspaper, book, Internet, or other electronic communication, list or directory, and that this includes business cards, announcement cards, office signs, letterhead, telephone directory listings, professional lists, professional directory listings, and similar professional notices.

Prohibited Under the Law

- Advertising or public communication which is a false, fraudulent, misleading, or deceptive statement. [Section 651]
- Using the term "doctor," "physician," "clinic," or "audiologist" or any variation of these terms, unless authorized by law. [Section 3401 (f)]
- Advertising without a valid license. [Section 3428]

Required Under Section 651

- Price advertising must be exact, without the use of phrases like "as low as," "and up," "lowest prices," or words or phrases with similar meaning.
- Any advertisement using words of comparison must be based on verifiable data substantiating the comparison.
- In price advertising, the price for each product or service must be clearly identifiable.
- The price advertised for a product must include charges for related professional services, including dispensing and fitting services, unless the advertisement clearly states otherwise.
- You may not compensate or give anything of value to a representative of the press, radio, television, or other communication medium for professional publicity unless the fact of compensation is made known in the publicity.

Advertising Content Permitted, but Not Required Under Section 651

- Name of the licensed hearing aid dispenser and address and telephone number of his/her office.
- Office hours.
- Statement of languages, other than English, fluently spoken by the licensed hearing aid dispenser or another person in his/her office.
- Statement that the dispenser is certified by a private or public board or agency.
- Statement that the dispenser provides services under a specified private or public insurance or health care plan.
- Statement of names of schools and training programs from which the dispenser has graduated, together with the degrees received from those schools or programs, if relevant to the practice of hearing aid dispensing.
- Statement of publications authored by the dispenser.
- Statement of teaching positions currently or formerly held by the dispenser including pertinent dates.
- Statement of affiliations with hospitals or clinics.
- Statement of charges or fees for services or commodities offered by the dispenser.
- Statement that installment payments are accepted.
- Otherwise lawful photos or drawings of the dispenser, his/her office, or the hearing aid advertised.
- Statement of the manufacturer, designer, style, model, trade name, brand name, color, size, or type of hearing aid advertised.
- Statement providing public health information encouraging preventative or corrective care.
- Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

Applying the Law

Price Advertising

- Section 651 of the Business and Professions Code requires that price advertising must be exact; that is, any conditions or other variables to an advertised price must be disclosed.

- Section 651 requires that statements of comparison be based upon verifiable data. In price advertising, a sale price is a comparison with the regular price. Therefore, whenever a sale price is questioned the dispenser must be able to provide data verifying the price break as compared with the regular price.
- An advertisement violates Section 651 of the code when it:

  (1) Is not exact, and any conditions or other variables to an advertised price are not disclosed.

  (2) Includes a statement of price comparison that is not based upon verifiable data.

  (3) Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.

  When advertising a specific hearing aid model:

Correct:	50% off Acme Model 12
	Regularly $1000, Now $500
Incorrect:	50% off Acme hearing aid

When advertising a category of hearing aids (e.g. all models from one manufacturer, or all BTE models):

Correct:	50% off Manufacturer's Suggested Retail Price
	All Acme Hearing Aids
Incorrect:	Acme Hearing Aids - 50% Off

Correct:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids
	offer good January 1-7, 1998 (or Offer expires January 7, 1998)
Incorrect:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids

Caution: If you are considering comparing the price you advertise with a manufacturer's suggested retail price, you should seek legal advice from private counsel.

Business Names

- Business names should not be so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.

Correct:	Delta Hearing Aid Center
Incorrect:	Delta Hearing Center

Hearing Tests

- Dispensers should not advertise hearing tests without qualification since the words "hearing test" suggest comprehensive, diagnostic testing not within a hearing aid dispenser's scope of practice.

Correct:	Test to determine if you could be helped by a hearing aid
Incorrect:	Hearing test

Direct Mail Solicitation

- Sending consumers preset appointment information or "rebate coupons", as part of a direct mail solicitation is prohibited because it is deceptive and misleading.

Educational Credentials, Schools, and Programs

- Dispensers may include an educational degree but must include the degree and field. Dispensers may not use the title "Dr." where the degree is a non-medical doctorate unless the ad discloses that fact.

Correct:	John Doe, Ph.D. in Audiology	Jane Doe, M.A. in Audiology
	John Doe, Ph.D. (Audiology)	Jack Doe, B.A. (Audiology)

Incorrect:	Dr. John Doe	Jane Doe, M.A.
	Dr. John Doe (Audiology)	Jack Doe, B.A.

- Dispensers should advertise or display only schools, programs, and degrees relevant to the practice of hearing aid dispensing.
- Dispensers may not include abbreviations for job titles or job certifications as letters after a name where those letters do no represent an academic degree or credential.

Certification by Professional Organizations

- If an advertisement refers to a dispenser's certification by a professional organization, it must include the name of the certifying organization and should be written in a manner that can be easily understood by consumers.

Correct:	John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx NB-HIS, Certified by the National Board of Certification in Hearing Instrument Sciences
Incorrect:	John Doe, NB-HIS

Use of "Dispenser" and "Specialist"

- The licensing law provides for licensing hearing aid "dispensers", not "specialists," therefore, dispensers must use the title "hearing aid dispenser" whenever referring to licensure.

Correct:	Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx Jack Doe, Licensed Hearing Aid Dispenser John Doe, Hearing Instrument Specialist Hearing Aid Dispenser Lic. No. HA-xxxx
Incorrect:	Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx Jack Doe, Licensed Hearing Aid Specialist

National Advertising

- National advertising run in California should comply with California law and regulations.

Yellow Pages Advertising

- Yellow pages advertising must comply with advertising law.

Regarding Licensure

- A license number consists of an alphabetical prefix and numerical suffix, for example "HA-xxxx." Omission of the "HA" or "HT" prefix results in an incomplete license number and is viewed as misleading or deceptive advertising.

Anonymous Advertising

- To avoid allegations of misleading or deceptive advertising, hearing aid dispensers should not utilize anonymous or blind advertising, but should disclose the name of the business or dispenser in each ad.

Correct:	For information on how you can be helped by a hearing aid, call John Doe, licensed hearing aid dispenser, at Delta Hearing Aid Center, 123-4567.
Incorrect:	If you have a hearing problem, call 123-4567.

Source: https://www.speechandhearing.ca.gov/board_activity/lawsregs/ad_guide.shtml

Attachment D: Statutory Requirements Regarding Hearing Test/Screening

Business and Professions Code Section 2530.5.
(a) Nothing in this chapter shall be construed as restricting hearing testing conducted by licensed physicians and surgeons or by persons conducting hearing tests under the direct supervision of a physician and surgeon.

(b) Nothing in this chapter shall be construed to prevent a licensed hearing aid dispenser from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids nor does this chapter restrict persons practicing their licensed profession and operating within the scope of their licensed profession or employed by someone operating within the scope of their licensed professions, including persons fitting and selling hearing aids who are properly licensed or registered under the laws of the State of California.

(c) Nothing in this chapter shall be construed as restricting or preventing the practice of speech-language pathology or audiology by personnel holding the appropriate credential from the Commission on Teacher Credentialing as long as the practice is conducted within the confines of or under the jurisdiction of a public preschool, elementary, or secondary school by which they are employed and those persons do not either offer to render or render speech-language pathology or audiology services to the public for compensation over and above the salary they receive from the public preschool, elementary, or secondary school by which they are employed for the performance of their official duties.

(d) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern in speech-language pathology pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his or her supervised course of study and that those persons are designated by the title as “speech-language pathology intern,” “speech-language pathology trainee,” or other title clearly indicating the training status appropriate to his or her level of training.

(e) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern in audiology pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his or her supervised course of study and that those persons are designated by the title as “audiology intern,” “audiology trainee,” or other title clearly indicating the training status appropriate to his or her level of training.

(f) Nothing in this chapter shall be construed as restricting the practice of an applicant who is obtaining the required professional experience specified in subdivision (c) of Section 2532.2 and who has been issued a temporary license pursuant to Section

2532.7. The number of applicants who may be supervised by a licensed speech-language pathologist or a speech-language pathologist having qualifications deemed equivalent by the board shall be determined by the board. The supervising speech-language pathologist shall register with the board the name of each applicant working under his or her supervision, and shall submit to the board a description of the proposed professional responsibilities of the applicant working under his or her supervision. The number of applicants who may be supervised by a licensed audiologist or an audiologist having qualifications deemed equivalent by the board shall be determined by the board. The supervising audiologist shall register with the board the name of each applicant working under his or her supervision, and shall submit to the board a description of the proposed professional responsibilities of the applicant working under his or her supervision.

(g) Nothing in this chapter shall be construed as restricting hearing screening services in public or private elementary or secondary schools so long as these screening services are provided by persons registered as qualified school audiometrists pursuant to Sections 1685 and 1686 of the Health and Safety Code or hearing screening services supported by the State Department of Health Care Services so long as these screening services are provided by appropriately trained or qualified personnel.

(h) Persons employed as speech-language pathologists or audiologists by a federal agency shall be exempt from this chapter.

(i) Nothing in this chapter shall be construed as restricting consultation or the instructional or supervisory activities of a faculty member of an approved or accredited college or university for the first 60 days following appointment after the effective date of this subdivision.

Business and Professions Code Section 2538.11.

(a) “Practice of fitting or selling hearing aids,” as used in this article, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

The practice of fitting or selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of the audiometer or other equipment shall be checked at least annually.

(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the practice of fitting or selling hearing aids.

(c) Hearing tests conducted pursuant to this article shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the board.

Business and Professions Code Section 2538.12.

A licensee may conduct hearing screenings at a health fair or similar event by the application of a binary puretone screening at a preset intensity level for the purpose of identifying the need for further hearing or medical evaluation.

Upon the conclusion of each hearing screening, the licensee shall present to the person whose hearing was screened a written statement containing the following provisions:

“Results of a hearing screening are not a medical evaluation of your ear nor a diagnosis of a hearing disorder but are only the identification of the need for further medical or hearing evaluation.”

A licensee conducting hearing screenings pursuant to this section shall not make or seek referrals for testing, fitting, or dispensing of hearing aids.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
1601 Response Road, Suite 260, Sacramento, CA 95815
P (916) 287-7915 | www.speechandhearing.ca.gov

MEMORANDUM

DATE	September 26, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 4: Review and Possible Approval of the August 11-12, 2022 Board Meeting Minutes

Background

Attached is a draft of the meeting minutes from the August 11-12, 2022 Board Meeting.

Action Requested

Please review and discuss whether there are necessary corrections or additional information needed. If not, make a motion to approve the August 11-12, 2022 Board Meeting minutes.

Attachment: August 11-12, 2022 Board Meeting Minutes

BOARD MEETING MINUTES – DRAFT
Teleconference Meeting
August 11-12, 2022

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.

Audiology Practice Committee

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

Dr. Marcia Raggio, Committee Chair, called the Audiology Practice Committee (Committee) meeting to order at 1:05 p.m. Dr. Raggio called roll; four members of the Committee were present and thus a quorum was established.

Audiology Practice Committee Members
Marcia Raggio, Dispensing Audiologist, Committee Chair
Karen Chang, Public Member
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist

Staff Present
Paul Sanchez, Executive Officer
Cherise Burns, Assistant Executive Officer
Michael Kanotz, DCA Legal Counsel
Karen Halbo, DCA Regulation Counsel
Maria Liranzo, Legislation/Regulation/Budget Analyst
Heather Olivares, Legislation/Regulation Analyst
Tenisha Ashford, Enforcement Coordinator
Lisa Snelling, Licensing Coordinator
David Bouilly, DCA SOLID

Guests Present
Jody Winzelberg, Au.D.

2. Public Comment for Items Not on the Agenda

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

3. Discussion and Possible Action Regarding Audiology Licensing Requirements Related to Supervised Clinical and Professional Experience as Stated in BPC Sections 2532.2 and 2532.25 and Title 16, CCR sections 1399.152.2

Dr. Raggio opened the discussion regarding audiology licensing requirements related to supervised clinical and professional experience. Cherise Burns provided a summary of the current requirements and changes made as part of the Sunset process.

Dr. Raggio commented on being in favor with changes to the number of clinical experience hours required for licensure. Dr. Amy White expressed agreement with changes to clinical experience hours and inquired how hours will be calculated under these changes. Dr. Raggio replied that the clinical experience wouldn't need to be continuous for it to count toward Required Professional Experience (RPE). Dr. White inquired if the survey questions should ask when students are observing or participating in the clinical experience. Dr. Raggio replied that the survey question included in the meeting materials may need revision to determine when students begin, type of activities, when they observe or are participants, and the number of hours required.

Dr. Raggio commented on the current regulatory requirement regarding the three different clinical settings and inquired if further clarify is necessary regarding what qualifies as a wide spectrum of ages and audiological disorders. Dr. White replied that it should be left to the programs to define for themselves. Dr. Tulio Valdez commented on national guidelines required for medicine and inquired if this is the same for audiology. Dr. Raggio replied that there is if a program is seeking certification. Dr. White inquired if this is also part of accreditation. Dr. Raggio replied that it is for the Council on Academic Accreditation (CAA) and the Board would need to verify for the other accreditation such Accreditation Commission for Audiology Education (ACAE). Dr. White commented that the may Board may wish to leave it to programs to define through their accreditation if this is already part of the accreditation. Dr. Raggio and Dr. Tulio expressed agreement with Dr. White's comment.

Dr. Raggio commented on specifying requirements related to the supervised professional experience that is separate and distinct from the requirements related to supervised clinical experience. Dr. White inquired about the current content of section 1399.152.2 and what the content of a new section would contain. Ms. Burns replied that the Board may wish to create a new section in regulations to specify requirements regarding clinical experience that would count toward RPE or add it to section 1399.152.2. Dr. Raggio and Dr. White expressed agreement to consider a new section in order to increase clarity.

Dr. Raggio commented on the survey question regarding simulation. Dr. White inquired if this is related to computerized program and not telehealth. Dr. Raggio inquired of Ms. Burns on the language of the survey question. Ms. Burns replied that some survey questions ask for the type of activities and if there should be limitations to certain type of activities. Dr. Raggio commented on the survey being able to provide the Board some direction and see what programs are doing.

Dr. Raggio commented on the verification of the clinical rotation hours or professional experience hours such as the use of logs. Dr. White commented that the direction of this may depend on survey responses to limitations to certain type of activities. Dr. Raggio inquired if other healing art boards ask for documentation. Dr. Valdez replied that accrediting bodies verify hours and commented on the use of simulation in medicine for training. Dr. Raggio commented on the metrics for success in simulation. Dr. Raggio further commented that it may not be necessary for the Board to require logs for verification and rely on the accreditation process to verify hours. Dr. White inquired if accrediting bodies define simulation. Dr. Raggio replied that the Board would have to look into it. Dr. Raggio commented that survey responses may suggest clarifications that should be codified in regulation related to the clinical or professional experience.

Dr. Raggio commented on the meeting material provided and inquired of Ms. Burns for further clarification. Ms. Burns replied that the survey questions are provided to see if there are any that need further clarification or if additional question should be asked. Dr. Raggio commented that the survey will offer the Board with information to guide the development of the regulatory language. Dr. White expressed agreement with Dr. Raggio's comment.

Dr. Raggio commented on the different part of the survey and the questions being asked. Dr. Raggio inquired about questions regarding students from out-of-state or with federal visas. Ms. Burns replied that Board staff have encountered an out-of-state student with insufficient professional experience and commented on how Board staff were able to find a program that was willing to allow this person to finish the experience. Dr. Raggio inquired if this person would come across this problem if they had an American Board of Audiology (ABA) certification. Ms. Burns replied that statutory language creates conditions that prevent loopholes to licensure requirements.

Dr. Raggio inquired of Dr. White if she was aware of programs that graduate students without a fourth-year externship or professional experience. Dr. White replied that she wasn't aware of such program.

Dr. Raggio inquired of audiology programs of their experience with out-of-state students who do not meet the professional experience requirements. Dr. Jody Winzelberg, Clinical Training Coordinator from San Jose State University, replied that she raised this question to other programs clinical directors she meets with regularly, and found that they haven't come across this problem. Dr. Winzelberg noted that programs are currently finding it difficult to place their students and to find placement for out-of-state students would create an additional burden. Dr. Winzelberg commented on placing student in states without triggering a "physical presence" as defined by the National Council for State Authorization Reciprocity Agreements (NC-SARA).

Dr. Raggio inquired of audiology programs of their experience with students on federal visas. Dr. Winzelberg replied that the Clinical Director from the University of the Pacific was on a federal visa and expressed it wasn't burdensome. Dr. Winzelberg commented

that programs are interested in maintaining the 12-month requirements for the professional experience and noted the hours are dictated by the accrediting bodies and not the programs.

Dr. Raggio inquired of audiology programs if the three different clinical setting requirements should be removed. Dr. Winzelberg replied that accrediting bodies want to see that programs are providing experience across age range and noted her program uses the three different clinical setting requirements set by the Board. Dr. Raggio inquired if her program has a way to log hours. Dr. Winzelberg replied that her program and many other programs use the same online repository, CALIPSO. Dr. Winzelberg commented that programs don't have observations in their programs and noted some programs require it prior to admission. Dr. Winzelberg further commented that most programs start on campus patient care within the first year and American Speech-Language-Hearing Association (ASHA) certification limits the number of simulation hour.

Dr. Raggio inquired of audiology programs if the 25-hours of supervised clinical rotations in a field other than audiology should be required. Dr. Winzelberg replied that accreditation bodies require hours in speech-language assessment and evaluation for speech and language disorder and her program currently track this. Dr. Raggio commented that some programs allow this to be an observation and the survey question may need to be revised to capture the nature of these hours.

Dr. Raggio inquired of audiology programs about tele practice. Dr. Winzelberg replied that her program is not doing any tele practice and noted accrediting bodies consider this as an alternative experience for students at a Veterans Affairs facility.

Dr. Raggio commented on clinical rotation within the first year not being equivalent to the 12-month professional experience. Dr. Winzelberg commented that programs have more control on clinical rotations than it does over externships.

Dr. Raggio commented that the questions regarding the program's current professional experience requirements and the program's current supervised clinical requirements are appropriate to ask in the survey. Dr. White expressed agreement to the questions being asked in the survey.

Dr. Winzelberg commented that most of the programs institute a clinical practicum within the first year. Dr. Raggio inquired if programs track those in a separate report. Dr. Winzelberg commented that they are tracked in the online repository previously mentioned.

Dr. Raggio inquired of Committee members for comments on the survey questions. Dr. White replied that the questions being asked are appropriate to ask.

Dr. Winzelberg commented that some programs have clinical directors and ask the Board to send the survey to them in addition to the program chair.

Dr. Raggio inquired Board staff on the timeline of when this survey will be disseminated. Ms. Burns replied that it will take a few weeks to put it all together with DCA.

The meeting adjourned at 2:21 p.m.

Hearing Aid Dispensing Committee

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

Mr. Tod Borges, Committee Chair, called the Hearing Aid Dispensing Committee (Committee) meeting to order at 2:32 p.m. Mr. Borges called roll; five members of the Committee were present and thus a quorum was established.

Hearing Aid Dispensing Committee Members
Tod Borges, Hearing Aid Dispenser, Committee Chair
Marcia Raggio, Dispensing Audiologist
Karen Chang, Public Member
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist

Staff Present
Paul Sanchez, Executive Officer
Cherise Burns, Assistant Executive Officer
Michael Kanotz, DCA Legal Counsel
Karen Halbo, DCA Regulation Counsel
Maria Liranzo, Legislation/Regulation/Budget Analyst
Heather Olivares, Legislation/Regulation Analyst
Tenisha Ashford, Enforcement Coordinator
Lisa Snelling, Licensing Coordinator
David Bouilly, DCA SOLID

2. Public Comment for Items Not on the Agenda

Mr. Borges inquired for public comments. There were no comments from the public, outside agencies, or associations.

3. Review, Discussion, and Possible Action on Statutes and Regulations Regarding Hearing Aid Dispensing Trainees as stated in Title 16, California Code of Regulations (CCR) sections 1399.114 through 1399.119

Mr. Borges opened the discussion on regulations regarding hearing aid dispensing trainees. Maria Liranzo provided an overview of the proposed changes and a summary of changes for each section.

Dr. Marcia Raggio inquired of the two temporary license types with one being for trainees and the other for someone who comes out of state with an existing license from that other state. Ms. Liranzo replied that Dr. Raggio's statement is correct.

Ms. Liranzo commented on suggested language to amend section 1399.114 and make the requirements applicable to the two temporary license types. Mr. Borges inquired for comments regarding removing or amending section 1399.114(e). Ms. Liranzo commented that this requirement may not be necessary as this is described in detailed in another section. Mr. Borges inquired if the language described in the other section can remain neutral so as to limit supervising dispenser to only three trainee or temporary licensed holder. Cherise Burns suggested removing this section so that all supervisor requirements and limitation are in section 1399.116. Dr. Raggio and Dr. Amy White expressed agreement to move it to supervisor requirement section. Mr. Borges inquired if it's being moved or removed. Ms. Burns replied to remove it from this section and making sure both license type is covered in section 1399.116.

Ms. Liranzo commented that Board staff doesn't have any additional changes to previously Board-approved language in section 1399.115. Mr. Borges inquired about grammatical corrections in section 1399.115(a). Ms. Burns replied that there should be comma after "The Board may refuse to approve." Mr. Borges inquired about the number of years of experience as being sufficient to supervise. Dr. White inquired if this matches the number of years that is required to be a subject-matter expert (SME) or an examiner and if this required for supervising in speech-language pathology and audiology. Ms. Liranzo replied that proposed changes to another rulemaking file will require speech-language pathologist to have two years after their initial licensure before supervising a speech-language pathology assistant (SLPA). Ms. Burns replied that SMEs are required to have three years of experience. Mr. Borges commented that two or three years may not be sufficient. Dr. White commented on the importance of having consistency. Dr. Raggio and Mr. Borges expressed agreement to Dr. White's comment.

Ms. Liranzo provided a summary of changes to previously adopted changes in section 1399.116 and inquired if an effective date needs to be specified to section 1399.116(c) and if there is a desire to have different recordkeeping requirements for this requirement. Mr. Borges inquired about courses available to complete this requirement. Ms. Liranzo replied supervising in speech-language pathology and audiology require the completion of this type of course and that these are courses available to them. Ms. Burns noted that those courses are under CPD providers and Board staff would have to look to see if CE providers are providing this type of course and, if not, it would be something a CE provider would have to start providing. Mr. Borges asked where Board staff would look to find this information. Ms. Burns replied that staff would review large CE providers. Mr. Borges noted there are only courses for audiologists. Dr. Raggio commented that courses offered for audiologists are there because of the requirement. Mr. Borges inquired if a grace period should be provided to allow CE providers to create these types of courses. Dr. Raggio inquired if the language regarding one year after the effective date cover this. Paul Sanchez commented that this could be an opportunity for the Board to reach out to professional organizations and

identify this need. Dr. Raggio inquired how long it takes for a regulation to be adopted. Ms. Liranzo replied that it takes a couple of years for the process and deferred to Ms. Burns on regulations effective date. Ms. Burns replied that regulations are effective at the next quarter after the Office of Administrative Law approval. Dr. White commented that Audiology Online has some courses that are general and not specific to supervision in audiology. Dr. Raggio inquired how Audiology Online determines course offerings. Ms. Burns replied that they may be available to comment on that inquiry when it goes to the Board for a vote.

Ms. Liranzo commented that temporary licensee holders will be added in section 1399.116(b). Mr. Borges inquired if the limitation is consistent with supervising SLPAs. Ms. Liranzo replied that the limitation will be three full-time no more than six at any one time to account for full-time and part-time. Ms. Liranzo commented that previous discussion removed the current limitation. Mr. Sanchez commented that the current limitation is one and someone can request an exemption or waiver to supervise up to three. Mr. Borges expressed concern about changing this requirement and inquired for comments. Dr. Raggio inquired of Mr. Borges how many trainees a dispenser might have. Mr. Borges replied that it is typically one. Dr. White commented that there could be a part-time trainee. Dr. Raggio inquired about the proposed changes. Mr. Borges replied that the proposed changes will allow for three with no waiver. Mr. Sanchez commented on actions the Committee can take on this requirement. Dr. Raggio commented that it is cleaner to keep the one-on-one situation with exceptions. Mr. Borges expressed agreement to keep the current requirement. Ms. Burns inquired if the Committee would like to develop the criteria to the waiver. Mr. Sanchez replied that it may not be necessary at this point. Ms. Liranzo noted that she can clean the section and bring it back to the Committee for review. Mr. Borges inquired of Committee members regarding Board staff suggestion to clean the language to maintain the current requirements. Dr. Raggio, Dr. White, and Dr. Tulio Valdez expressed agreement to Board staff suggestion.

Ms. Liranzo inquired of the Committee if section 1399.117 should be amended or repealed. Ms. Halbo replied that the Committee doesn't have to repeal it if it finds this section useful. Dr. Raggio asked what action is required of the Committee. Ms. Liranzo replied that the Committee can either amend it to make it applicable to both temporary license type or repeal it as it doesn't make specific requirements that already exist in statues. Mr. Sanchez commented that it is helpful to cite regulations in dealing with disciplinary actions. Dr. Raggio commented that it should be amended. Mr. Borges expressed agreement to Dr. Raggio's comments.

Ms. Liranzo commented that Board staff doesn't have any additional changes to previously Board-approved language in section 1399.118. Mr. Borges commented on the language used in section 1399.118(c)(6) and inquired if it should say "pure tone air and bone". Dr. Raggio expressed agreement to the suggested change. Ms. Burns inquired if it should also say "conduction audiometry." Dr. White commented that it should match the language previously listed for the purpose of continuity. Dr. Raggio and Mr. Borges expressed agreement with the suggested changes.

Mr. Borges commented on section 1399.118(c)(10) and how some dispensers may not have the equipment to conduct Real Ear Measurements. Dr. Raggio commented that trainees should have the knowledge however they gain it. Dr. White commented that this is becoming more prevalent and being built into the hearing aid manufacture software.

Mr. Borges commented on section 1399.118(c)(7) and how some dispensers may not have electroacoustic analysis equipment. Dr. Raggio commented on this being an essential equipment to any practice. Dr. White commented on the importance of hand-on experience on electroacoustic analysis equipment and Real Ear. Dr. Raggio commented that electroacoustic analysis equipment is an essential equipment whereas there are substitutions to Real Ear such as functional gain. Mr. Borges commented that the language may restrict dispensers from supervising because they lack the equipment to train. Dr. White commented on proposed regulation should hold those wanting to train to a higher standard.

Ms. Burns inquired if sections 1399.118(c)(7) and 1399.118(c)(10) should be a "knowledge of." Dr. Raggio expressed disagreement to the suggested changes. Dr. Valdez also expressed disagreement to the suggested changes and commented trainees should be exposed to all possible resources. Dr. Raggio commented that most equipment contains both electroacoustic analysis and Real Ear. Ms. Burns inquired if these are tasks that can be taught somewhere else and applied in the practice. Dr. White commented that the trainee would not learn how to use it and when to use it. Mr. Borges commented that another person would not be able to train the trainee because they are not listed as the supervisor. Dr. White suggested that both electroacoustic analysis and Real Ear should be required as hands on. Dr. Raggio expressed agreement to the suggested changes. Karen Chang inquired if this creates a higher standard on trainees if current dispensers don't need to use this equipment in practice. Dr. Raggio replied that one must be able to perform these tasks to troubleshoot hearing aids. Ms. Chang commented on defining minimal competence as being acquired through hands on experience. Dr. White expressed agreement with Ms. Chang's comment. Mr. Sanchez commented on the purpose of the training is to prepare individuals to take the licensing examinations. Dr. Raggio and Dr. White commented on the necessity to identify these tasks as hands on experience and not knowledge base. Mr. Borges noted that "knowledge of" will be removed from section 1399.118(c)(10). Dr. Raggio, Dr. White, and Ms. Chang expressed agreement to the suggested change.

Mr. Borges suggested adding in section 1399.118(g) "a trainee is no longer able to renew" as a condition of terminating supervision. Ms. Burns and Mr. Sanchez noted the suggested change.

Mr. Sanchez noted that Ms. Chang had to step away from the meeting, but the Board still had a quorum and could continue. Ms. Liranzo provided a summary of changes to section 1399.119. Ms. Liranzo inquired if "independently operate" found in Business and

Professions Code section 2538.30 need to be defined in section 1399.119(c). Dr. Raggio inquired if there were others definition beside “direct” and “intermediate” supervision. Ms. Liranzo replied that they were the only definitions identified and that this item could be discussed by the Committee. Dr. Raggio inquired of the term “manage” and its locations. Ms. Liranzo replied that it is in Business and Professions Code section 2538.30. Ms. Halbo suggested the language should read “pursuant to” instead of “for purposes of.” Ms. Liranzo noted the suggested changes.

Mr. Borges inquired if additional changes are needed to the definition of “direct” and “intermediate” supervision in sections 1399.119(a) and (b). Dr. Raggio inquired if the language was borrowed. Ms. Liranzo replied that they are a variant of definitions used for SLPA and RPE supervision. Mr. Borges expressed agreement to the proposed changes.

Mr. Borges inquired if the 20% requirement is being eliminated for the requirement identified in sections 1399.119(e) and (f) for 100% supervision for the first 90 days the trainee is supervised. Ms. Liranzo replied that Mr. Borges statement is correct. Dr. Raggio inquired about a form for the supervisor to countersign regarding supervision of trainees. Mr. Borges replied that they have a different signature on their form in his practice.

Dr. Raggio inquired about the language in section 1399.119(f) lacking clarity. Ms. Liranzo replied that the Board intended to provide supervisors with the flexibility to extend the ninety days. Dr. White expressed her agreement that the language lacks clarity and inquired for a way to ensure it reflects the Board’s intentions. Ms. Liranzo commented on adding “whichever comes later.” Ms. Halbo suggested that it should say “whichever occurs later.” Ms. Halbo suggested changes to the first paragraph to remove “and” after “according to section 1399.114(b).” Ms. Liranzo noted the suggested changes.

Ms. Liranzo inquired if “physically present” in section 1399.119(h) should be defined as either “immediate” or “direct” supervision. Mr. Borges expressed agreement to define it as immediate supervision. Mr. Borges inquired if license examination should be specified as practical or written. Ms. Liranzo replied that this change can be made. Mr. Borges noted that license examination is also mentioned in section 1399.114. Ms. Liranzo noted the suggested change as written or practical examination. Dr. White and Mr. Borges expressed agreement with the suggested changes.

Ms. Liranzo inquired if any recordkeeping should be required such as the first 90-day of supervision and training. Dr. Raggio inquired if the Board monitors this for other licensed type. Ms. Liranzo replied that SLPA has a first 90-day requirements with a record as part of their personnel file. Dr. Raggio inquired if this is something the Board looks at. Ms. Burns replied that the Board can request it if needed. Mr. Borges inquired if a form will be provided. Ms. Burns replied that there will be no form and will be up to the supervisor to determine how to track and document it. Dr. Raggio, Mr. Borges, Ms. Chang, and Dr. White expressed agreement to the suggested changes.

Mr. Borges inquired for public comments. There were no comments from the public, outside agencies, or associations.

4. Review, Discussion, and Possible Action on Regulations Regarding Hearing Aid Dispenser Advertising Requirements as Stated in Title 16 CCR section 1399.127

Mr. Borges opened the discussion on regulations regarding hearing aid dispensing advertising requirement. Ms. Liranzo provided an overview of the proposed changes and inquired for comments. Mr. Borges inquired if the language seeks to replace the tables with an explanation. Ms. Liranzo replied that it would replace the tables and information with clearer language.

Ms. Liranzo commented that sections 1399.127(a) and 1399.127(b) identifies the sections in the Practice Act related to advertising and make it applicable to dispensing audiologists. Ms. Liranzo commented that sections 1399.127(c) and 1399.127(d) are related to displaying name, educational degree, or job titles.

Dr. Raggio inquired about section 1399.127(d)(1) and how it would appear to the public. Mr. Borges inquired if this includes honorary degree. Ms. Liranzo replied that an honorary degree could be a degree considered as unearned. Ms. Burns replied that any educational degree level for any field can be advertised so long as information is exactly what was earned. Mr. Sanchez commented that this would be situations where someone is advertising and imply, they have a degree they don't have. Dr. Raggio inquired if audiologist wouldn't be able to call themselves doctor without the designation of AUD. Mr. Borges replied that he believes that is the way now. Mr. Borges commented on a situation where a licensed dispenser had a doctorate in a field not related to medicine causing confusion and expressed agreement to the proposed language in section 1399.127(d)(1).

Dr. Raggio inquired about section 1399.127(d)(3) and if the term "audioprosthologist" is a designation given by International Hearing Society (IHS) or another organization. Mr. Borges replied that it was a designation through the IHS and hasn't been around for years. Dr. Raggio inquired if people are using it. Mr. Borges replied that there may be some who are using it because they got a number of years ago. Mr. Borges commented that the proposed regulations would require them to state where the designation came from.

Mr. Borges expressed agreement to the proposed language in section 1399.127(d)(4) and inquired of situation related to section 1399.127(d)(6). Dr. White replied that she had a patient that called regarding their appointment but it was an advertisement from a nearby business. Dr. Raggio commented on seeing this type of advertisement.

Mr. Borges inquired about the situations that would violate section 1399.127(g). Mr. Sanchez replied that this is intended to prevent "bait and switch" transactions. Dr. Raggio inquired how a non-discounted fee is determined to be true. Mr. Borges

replied that it would be difficult to determine. Dr. White commented that a seller would have to show that they sell the hearing aid at the non-discounted price at other times when the discount is not offered. Mr. Borges inquired if the actual price means the manufacturer's suggested retail price (MSRP). Dr. White replied that there may be businesses that sell at the MSRP, and this prevents them from inflating it.

Dr. Raggio inquired of the exemption stated in 1399.127(h). Mr. Borges replied that it means they don't need to provide the information in that section when running a national advertainment.

Mr. Borges expressed concern that a licensee will be subject to disciplinary action if their national company puts out an advertisement that violates this section. Ms. Chang expressed the same concern. Dr. White commented on holding national companies to the same standards as non-franchise businesses. Mr. Borges expressed agreement to holding national companies to the same standards but the disciplinary action should not be against a licensee. Ms. Chang inquired if action can be taken against national companies. Ms. Sanchez replied that there may be a way to address advertising issues that take place in California and commented on licensees being responsible for advertising that is false or in violation of the law if they are benefiting from it. Ms. Burns commented that the disciplinary action is for sales resulting from national advertisement and inquired if a clause should be added to allow the licensee to inform the consumer the correct information prior to the sales. Mr. Sanchez replied that it may not work that way. Mr. Borges and Ms. Chang inquired if there is a way to hold national company accountable. Mr. Sanchez replied that there have been cases where advertisement was changed to note that it isn't applicable in California and noted that it is all on a case-by-case basis.

Mr. Sanchez inquired if the old format was effective in understanding the law compared to what is being proposed. Dr. White replied that she found the current language acceptable and have frequently referenced them. Mr. Borges replied that they are helpful. Ms. Burns inquired if the information should be used as an educational material and on the website.

Mr. Borges inquired if this item should be tabled for further discussion. Mr. Sanchez replied that it has to be tabled for the next Hearing Aid Committee meeting. Dr. Raggio and Dr. White expressed agreement to table this item.

Mr. Borges inquired for public comments. There were no comments from the public, outside agencies, or associations.

The meeting adjourned at 4:56 p.m.

Full Board Meeting

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

Dr. Marcia Raggio, Board Chair, called the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) meeting to order at 9:04 a.m. Dr. Raggio called roll; seven members of the Board were present and thus a quorum was established.

Board Members
Marcia Raggio, Dispensing Audiologist, Board Chair
Holly Kaiser, Speech-Language Pathologist, Vice Chair
Tod Borges, Hearing Aid Dispenser
Karen Chang, Public Member
Gilda Dominguez, Speech-Language Pathologist
Debbie Snow, Public Member
Amy White, Dispensing Audiologist

Staff Present
Paul Sanchez, Executive Officer
Cherise Burns, Assistant Executive Officer
Michael Kanotz, DCA Legal Counsel
Karen Halbo, DCA Regulation Counsel
Maria Liranzo, Legislation/Regulation/Budget Analyst
Heather Olivares, Legislation/Regulation Analyst
Tenisha Ashford, Enforcement Coordinator
Lisa Snelling, Licensing Coordinator
Tim Yang, Enforcement Analyst
Shelly Jones, DCA Executive Office
David Bouilly, DCA SOLID

Guests Present
Mark Fukui, JBS Associates
Shelley Bader

2. Public Comment for Items Not on the Agenda

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

3. Review and Possible Approval of the May 12- 13, 2022, Board Meeting Minutes

Dr. Raggio opened the discussion on the review and possible approval of the minutes. Maria Liranzo provided a summary of the May 12-13, 2022, Board Meeting Minutes. Dr. Raggio inquired for Board comments or amendments.

Holly Kaiser requested amendments on page 25 to correct the motion language on Senate Bill (SB) 1453 to say, “Support if Amended.”

Gilda Dominguez requested amendments on page 25 to correct the name of the employee from Emanate Health to say, “Kenya Gomez-Tydor.”

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

Tod Borges moved to approve the May 12-13, 2022 Board meeting minutes, as Amended.

Karen Chang seconded the motion.

The motion carried 7-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, White)

4. Board Chair’s Report

Dr. Raggio opened the discussion on the 2023 Board and Committee Meeting Calendar and noted that the next meeting will be in-person in Southern California.

Debbie Snow reported on the discussion from the Enforcement Ad Hoc Committee meeting held on August 11, 2022.

Mr. Borges reported on the discussion from the Hearing Aid Dispensing meeting held on August 11, 2022.

Dr. Raggio reported on the discussion from the Audiology Practice Committee meeting held on August 11, 2022. Ms. Kaiser suggested changes to the survey that the Audiology Practice Committee will send to audiology programs.

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

5. Executive Officer’s Report

Paul Sanchez reported on the Business Modernization Project (Biz Mod) including filling a vacant position created by the project.

Mr. Sanchez reported on outreach efforts including a visit to the audiology program at California State University, Sacramento Audiology.

Mr. Sanchez reported on the budget and fund condition including the surplus(deficit) percentage, Biz Mod funding, months in reserve, and Budget Change Proposal (BCP).

Mr. Sanchez provided a brief report on the Board's regulation and deferred to the regulation report.

Mr. Sanchez reported on licensing and enforcement including licensing processing time, practical examination, and disciplinary actions.

Ms. Kaiser inquired if the problem of incomplete applications improved. Mr. Sanchez replied that Board staff are making several improvements with the current processes. Ms. Burns replied that data can be provided at the next meeting to show how the Board has been doing on "complete" versus "incomplete" applications and noted the Biz Mod will solve this problem by making people submit complete product.

Dr. Raggio inquired about the enforcement data and if complaints are broken down by profession. Ms. Burns replied that it is provided at the end of the fiscal year when Board staff reports to DCA. Mr. Sanchez commented on data collection for the annual report and noted the data can be provided at the next meeting.

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

6. DCA Update – DCA Board and Bureau Relations

Dr. Raggio invited staff from DCA Board and Bureau Relations to provide an update. Shelly Jones with DCA Executive Office provided an update on remote public meetings, DCA's public meeting survey, safety measures for in-person public meetings, Enlighten Licensing Project, DCA's regulations brown bag meeting, position filled in DCA's Administrative Services, travel expense claims, and Board Member Orientation Training.

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

7. Update and Presentation on the Board's Business Modernization Project and Upcoming Online Applications for Licensure

Dr. Raggio opened the discussion for update on and presention of the Board's Business Modernization Project. Mr. Sanchez provided a background on the Board's Business Modernization Project and extended gratitude to DCA's Office of Information Services, Board staff, and the external vendor. Ms. Burns provided as summary of benefits to the application process and release dates for various license type applications.

Tim Yang invited Mark Fukui with JBS Associates to provide a demonstration of the online application that will be available to applicants.

Dr. Raggio inquired how applicants will be able to access the online application. Mr. Yang and Mr. Fukui replied that it will be on the webpage where the applications are currently located.

Dr. Raggio inquired about whether an applicant can apply using the wrong application type. Ms. Burns replied that applicants will be aware they are using the wrong applicant when they don't have an item to attach.

Dr. Raggio inquired about an option to save the application and finish later. Mr. Fukui replied there is that function.

Ms. Kaiser inquired how supervision will be verified to ensure that it meets requirements set forth by regulations, especially the proposed changes. Ms. Burns replied that it is part of the analyst requirements review as the online application system does not connect to all other systems the Board uses and commented on the benefit of reducing the issue of incomplete applications.

Ms. Chang inquired how easy is it to make changes to the application i.e., changes to the fees or dropdown menus. Mr. Fukui replied on the ease of making changes within an application and noted the changes are applicable that point forward, therefore applications already started will not have the changes. Ms. Burns commented on the ease of making changes using this system.

Mr. Borges inquired if there will be a demonstration for other applications. Mr. Yang replied that another demonstration may not be necessary as the other applications follow the same format as what was presented today. Mr. Sanchez commented that there could be a possibility for other demonstration on other concepts for using this system.

Dr. Raggio inquired of the plan to implement and inform speech-language pathology and audiology programs. Mr. Sanchez replied on the different way Board staff will communicate the changes. Dr. Raggio suggested developing a video for the website that walks an applicant through the process.

Shellie Bader, a member from the public, inquired of the dates the online applications will be available and how long the application approval process will be. Ms. Burns replied with the dates for all license type releases and noted that an exact processing timeframe cannot be provided but this system will shorten the time and make peak season more manageable.

8. Review and discussion of potential updates to the Board's Administrative Procedure Manual

Dr. Raggio opened the discussion on potential updates to the Board's Administrative Procedure Manual. Ms. Burns provided a background of the Board's Administrative

Procedure Manual for the Board to review and discuss potential updated to the document.

Ms. Burns inquired for revisions or additions to Chapter 1 such as adding the Board's Mission, Vision, and Strategic Goals. Dr. Raggio replied that it should be included. Ms. Burns inquired if the roles and responsibility of the Board should be added. Dr. Raggio and Mr. Borges expressed agreement to add the information.

Dr. Raggio inquired how the manual is distributed to new members. Ms. Burns replied that new members are provided a law book, the last Sunset Review document, this manual, DCA policies and procedure, and hiring packet. Dr. Raggio suggested a checklist to describe what is being provided to them. Ms. Burns commented that an onboarding checklist is something Board staff can created. Dr. Raggio inquired if visit to the Board's office still being provided. Ms. Burns replied that they are conducted before the first Board meeting but have been remote due to the pandemic, and noted the packet is provided before the visit. Mr. Sanchez commented on the visit to the Board's office and onboarding checklist. Dr. White suggested introducing documents and materials at different time instead of all at once.

Ms. Burns inquired if Chapter 2 should be updated to reflect the use of web-based teleconference meetings to enhance opportunities for public participation. Dr. Raggio replied that it should.

Ms. Burns inquired if Chapter 2 should be updated to reflect current DCA requirements for agenda preparation, and require requests to be made six to eight weeks prior to a meeting. Dr. Raggio inquired if DCA approves the Board's agenda and if they judge the content. Ms. Burns replied that DCA Legal review all agenda to ensure they meet the Open Meeting Act requirements so that the public is aware on what is being discussed. Mr. Sanchez and Michael Kanotz commented on the agenda and the Opening Meeting Act.

Ms. Burns inquired if Chapter 2 should be updated to reflect current DCA recommendations to record and post to the Board's website either the webcast recording or WebEx recording of the board meeting for greater transparency to the public. Dr. Raggio and Mr. Borges expressed agreement to update the information.

Ms. Burns inquired if Making a Motion at Meetings in Chapter 2 needs revisions regarding seconding a motion, how to withdraw a motion, and the basic process of a motion. Dr. Raggio expressed agreement to update the information. Ms. Dominguez inquired how a motion should be second. Mr. Kanotz replied that there is no requirement to restate the motion when a motion receives a second. Ms. Dominguez suggested revisions to page 7 to reflect this comment. Mr. Kanotz expressed agreement that changes can be made and Ms. Liranzo noted the suggested changes.

Mr. Sanchez inquired if any revisions are needed in the roles and responsibilities of Board officers in Chapter 4 including the annual evaluation of the executive officer and

officer elections. Dr. Raggio expressed agreement to the suggested changes. Ms. Kaiser inquired about the vice chair's responsibilities. Mr. Sanchez replied that it was something the Board was striving for when it developed this document and noted that the Board can reconsider any roles and responsibilities. Ms. Kaiser commented on her experience and noted the Sunset should be added. Mr. Sanchez commented on the background of the document. Ms. Burns and Mr. Sanchez commented on what other boards include in their document. Mr. Borges inquired if responsibilities should be removed if they weren't performed by the vice chair. Ms. Burns replied that the level of engagement would be beneficial to the Board. Mr. Sanchez commented on his experience working for another board. Dr. White expressed agreement with comments provided. Ms. Dominguez commented that the Sunset Review is listed under Board committees and suggested revising it or adding under the chair's and vice chair's roles and responsibilities.

Dr. Raggio inquired of the yearly elections under the chair's roles and responsibilities. Ms. Burns replied with information on the how the Board currently conducts officer elections. Mr. Sanchez commented on different approach to conduct officer elections. Ms. Burns inquired if election of officers should be updated to reflect elections based on the calendar year and not fiscal year. Dr. Raggio and Mr. Borges expressed agreement to update the information.

Ms. Burns inquired if the use of Ad Hoc Committees should be specified in the Committees and Creation of Committees in Chapter 4. Mr. Borges expressed agreement to the changes for the purpose of transparency. Mr. Sanchez suggested expanding the language to say, "the chair shall establish committees whether standing or special as necessary" and noted the intent of special committee is to mean ad hoc. Dr. Raggio expressed agreement to the suggested changes. Mr. Sanchez and Ms. Burns noted that not all of the committees are listed such as the Hearing Aid Dispensing Committee and is worth mentioning.

Ms. Burns inquired if the Committee and Creation of Committees in Chapter 4 be updated to reflect changes as the result of the Board's Sunset Bill and specify the role and membership. Ms. Dominguez suggested adding the description of each committee found in the Board chair's report. Dr. Raggio expressed agreement to the suggested changes.

Ms. Burns inquired if Chapter 5 on Board Administration and Staff need any revisions and commented about areas where additional information can be added. Ms. Burns inquired if the Board still desire to delegate to the executive officer and the Board chair and vice chair the authority to take action on legislation that would affect the Board in the event time constraints preclude Board action. Ms. Kaiser inquired what this authority means. Ms. Burns replied that this allows the Board to take a position on last minute legislative changes when the entire Board cannot meet. Mr. Sanchez commented on the authority to take action on legislative due to time constraints.

Ms. Burns inquired if any sections of Chapter 6 could use additional clarification. Mr. Sanchez inquired if the Board would like to specify the onboarding checklist based on the training information provided on page 14 of the manual. Ms. Dominguez replied suggesting a checklist or grid that list the activities due in chronological order and the how the activity is accessed. Dr. Raggio commented and suggested adding information regarding when Board member can or cannot communicate with each other outside of Board meetings. Ms. Burns suggested adding a summary of the most critical functions of the Bagley-Keene Open Meeting Act in Chapter 2. Ms. Kaiser and Debbie Snow expressed agreement in adding the information. Ms. Kaiser commented on her experience of the DCA orientation training.

Ms. Burns inquired if any sections in Chapter 7 could use additional clarification. Mr. Sanchez commented on the mail ballot procedure and additional clarification needed. Ms. Burns commented that having a lot of guidance is helpful for enforcement. Dr. Raggio inquired if the requirement to return ballots electronically will remain. Ms. Burns replied that electronic is faster and easier than physical mail ballot. Ms. Burns suggested revising the mail ballot procedure to be more specific to the electronic process.

Mr. Sanchez commented on the "hold for discussion" and inquired if the Board is still comfortable with one vote being required to hold a case for closed session. Ms. Snow replied that she would like to keep it as one vote. Dr. Raggio expressed agreement in keeping the one vote. Ms. Burns and Mr. Sanchez commented on the process to ensure the hold isn't for a clarifying question that DCA Legal can answer but a disagreement with the proposed decision. Mr. Borges inquired if the Board is changing the votes from two to one. Ms. Burns and Mr. Sanchez replied that the definition on page 22 may have been a mistake and it should say one vote.

Ms. Burns inquired if any issues or topics that are not covered require additional clarification. Dr. Raggio inquired if the plan is to send out an electronic version to the current board members. Ms. Burns replied that it is as well as a physical version. Ms. Kaiser inquired when Board meeting dates are determined. Ms. Burns replied that potential dates are presented on the last Board meeting of the calendar year. Ms. Kaiser suggested adding this information in the manual.

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

9. Update and Discussion Regarding the Board's 2022 Sunset Review and the Board's Sunset Bill, Assembly Bill (AB) 2686

Dr. Raggio opened the discussion on the Board's Sunset Review. Mr. Sanchez provided a background on the Board's 2022 Sunset Review and an update on the Board's Sunset Bill, AB 2686.

Dr. Raggio inquired for Board discussion and public comments. There was no Board discussion nor comments from the public, outside agencies, or associations.

10. Legislative Report: Update, Review, and Possible Action on Proposed Legislation

Dr. Raggio invited Heather Olivares to provide the legislative report. Ms. Olivares provided an update on the legislative calendar and deadlines and bills with active positions taken by the Board. Dr. Raggio inquired for public comments on AB 225, 1662, 1722, and 2686. There were no comments from the public, outside agencies, or associations.

Ms. Olivares provided a summary of AB 2806 by Assemblymember Rubio regarding preschool mental health reimbursement rates and noted it has an Oppose Unless Amended position. Ms. Olivares commented on the recent amendments to the bill and recommended the Board to change their position to No Position.

Dr. Raggio inquired for Board discussion and public comments on AB 2806. There was no Board discussion nor comments from the public, outside agencies, or associations on AB 2806.

Debbie Snow made a motion to change the Board's position on AB 2806 to No Position.

Tod Borges seconded the motion.

The motion carried 7-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, White)

Ms. Olivares provided an update on bills on Senate Bill (SB) 1031. Dr. Raggio inquired of the rationale of SB 1031 to set the inactive license fees to be half of the amount of the renewal fee. Ms. Olivares replied that the intent is to encourage licensees, especially those that move out of state, to have the ability to maintain their license without paying the full cost. Dr. Raggio inquired for public comments on SB 1031. There were no comments from the public, outside agencies, or associations.

Ms. Olivares provided a summary of SB 1453 by Senate Ochoa Bogh regarding speech-language pathologist performing the Fiberoptic endoscopic evaluation of swallowing (FEES) procedure and noted it has a Support If Amended position. Ms. Olivares commented on the recent amendments to the bill and recommended the Board to change their position to Support.

Dr. Raggio inquired on the circumstances when this procedure cannot be performed and the contraindications. Ms. Olivares replied that it can be performed in the locations specified in the language with the emergency backup procedure being followed, and noted that standards are set by the Department Public Health. Ms. Olivares commented on the contraindications listed in the language and amendments to the list.

Dr. Raggio inquired about the discussion with stakeholders. Ms. Dominguez replied with a summary of the discussion with stakeholders regarding the list of contraindications. Mr. Sanchez commented on the list of contraindications and Dr. Tulio Valdez's position of support.

Dr. Raggio inquired if the language provides consumer protection. Mr. Sanchez and Ms. Burns replied that the regulations and oversight required for the locations listed in the language provide consumer protection and noted the training required to perform this procedure. Dr. Raggio inquired of Dr. Valdez's position. Mr. Sanchez replied that he is in support.

Ms. Kaiser commented to express approval of the language especially in regard to the required training.

Andrea Ball on behalf of California Speech Language Hearing Association (CSHA) expressed gratitude to the Board for their collaboration on the SB 1453.

Gilda Dominguez made a motion to change the Board's position on SB 1453to Support.

Holly Kaiser seconded the motion.

The motion carried 7-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, White)

Ms. Olivares provided an update on bills with recommended watch status.

Dr. Raggio inquired what it means when a bill is not schedule for a meeting and therefore dead. Ms. Olivares replied that those bills may not have met certain deadlines.

Dr. Raggio inquired for public comments on bills with recommended watch status. There were no comments from the public, outside agencies, or associations on bills with recommended watch status.

11. Legislative Items for Future Meeting

Dr. Marcia Raggio solicited legislative items for future meeting. Ms. Olivares noted Board staff have no additional items at this time.

Dr. Raggio inquired for public comments. There were no comments from the public, outside agencies, or associations.

12. Regulatory Report: Update, review, and possible action on Board regulation packages

Dr. Raggio invited Ms. Liranzo to provide the regulatory report. Ms. Liranzo provided an update on board regulation packages. Dr. Raggio inquired for Board discussion or public comments items (a), (b), (c), and (d). There was no Board discussion nor comments from the public, outside agencies, or associations on items (a), (b), (c), and (d).

Ms. Liranzo provided a background and summary of changes on item (e) regarding continuing professional development (CPD) requirements for speech-language pathologists and audiologists.

Dr. Raggio inquired if the definition of self-study would mean not “face-to-face” or “live” interaction. Ms. Liranzo replied to that Dr. Raggio’s statement is correct and noted it was the language used to defined Asynchronous.

Dr. Raggio inquired how are new terms introduced into regulations. Ms. Liranzo replied that it would have to replace the term “self-study” where it is used throughout regulations. Ms. Burns commented that it would have to be used more frequently throughout the regulations.

Ms. Liranzo noted that DCA Legal requested a change to section 1399.160.3(d)(2) to underline “shall be earned.”

Dr. Raggio inquired for public comments. Stacy Cooper, a member from the public, inquired if the Board is considering tele supervision for required professional experience (RPE) and speech-language pathology assistants. Dr. Raggio replied that this inquiry can be revisited at a later time in the meeting as this is not related to the item or motion regarding proposed changes to CPD requirements.

Tod Borges moved to approve, as amended, the proposed regulatory text for Sections 1399.160 through 1399.160.4 direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45- day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Sections 1399.160 through 1399.160.4 as amended.

Dr. Amy White seconded the motion.

The motion carried 7-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, White)

Ms. Liranzo provided an update on item (f) and (g). Dr. Raggio inquired for Board discussion or public comments. There was no Board discussion nor comments from the public, outside agencies, or associations on items (f) and (g).

Ms. Liranzo provided a background and summary of changes to item (h) regarding continuing education (CE) requirements for hearing aid dispensers and dispensing audiologists.

Mr. Borges inquired if by removing section 1399.140(e) licensees will be required to complete CE during their first year of licensure. Ms. Liranzo replied that it would.

Mr. Borges inquired if board membership could be counted as CE. Ms. Burns and Mr. Sanchez replied that Board staff would need to research.

Ms. Liranzo noted that DCA Legal requested a change to section 1399.140.1(a) to say, "the content of a continuing education course shall pertain to direct or indirect patient/client care, or related to the discipline of hearing aid dispensing" and strikeout "patient/client care" at the end of that sentence.

Ms. Liranzo inquired of the Board if an allowable number of CE hours for course related to hearing aid devices should be specified. Mr. Borges commented on the Hearing Aid Dispensing Committee discussion to limit the number of hours to course related to hearing aid devices and inquired if the current language would allow licenses to complete eight hours on this type of course. Ms. Liranzo replied that a licensee would have eight hours for course related to hearing aid devices if they completed four hours of indirect patient/client care. Ms. Liranzo noted that a licensee can complete twelve hours on this type of course as falls under direct patient/client care with how the language is written.

Dr. Raggio inquired of Mr. Borges for his opinion on the allowable number. Mr. Borges replied that six is a reasonable number.

Dr. White inquired if the allowable number of hours would be on fitting hearing aid devices or a specific manufacturer. Mr. Borges replied that it would say, "content on the fitting, programming, and troubleshooting of equipment, devices, or other products of a particular manufacturer or company only as it relates to benefitting a client's hearing and functional use of the equipment, device, or product." Dr. White expressed agreement with the suggest language.

Dr. Raggio inquired if this would allow course that are manufacturer product specific sales. Mr. Borges replied that he doesn't think so because courses are shorter and the language precludes course content focused on marketing, launching, or demonstrating the marketability of equipment; and Board staff are responsible for reviewing the course content.

Ms. Liranzo noted that the suggested language will be added as paragraph (3) to section 1399.140(a) to say, “No more than six (6) hours of continuing education may be credited on content on the fitting, programming, and troubleshooting of equipment, devices, or other products of a particular manufacturer or company only as it relates to benefitting a client’s hearing and functional use of the equipment, device, or product.” Ms. Halbo commented on the language doing what the Board discussed.

Dr. Raggio inquired for public comments on the item and motion regarding proposed changes to CE requirements. There were no comments from the public, outside agencies, or associations.

Tod Borges moved to approve, as amended, the proposed regulatory text for Sections 1399.140, 1399.140.1, and 1399.144, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Sections 1399.140, 1399.140.1, and 1399.144 as amended.

Holly Kaiser seconded the motion.

The motion carried 6-0. (Ayes: Raggio, Kaiser, Borges, Dominguez, Snow, White)

Ms. Liranzo provided a background and summary of changes to item (i) regarding speech- language pathology assistant (SLPA) program and academic requirements.

Dr. Raggio inquired for Board discussion and public comments on the item and motion regarding proposed changes to SLPA program and academic requirements. There was no Board discussion nor comments from the public, outside agencies, or associations.

Holly Kaiser moved to approve the proposed regulatory text for Sections 1399.170.4, 1399.170.10, and 1399.170.11 direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45- day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Sections 1399.170.4, 1399.170.10, and 1399.170.11 as noticed.

Gilda Dominguez seconded the motion.

The motion carried 7-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, White)

Ms. Olivares provided a background and summary of changes to item (j) regarding SLPA application and Board processing times.

Dr. Raggio inquired for Board discussion and public comments on the item and motion regarding proposed changes to SLPA application and Board processing times. There was no Board discussion nor comments from the public, outside agencies, or associations.

Tod Borges moves to approve the proposed regulatory text for Sections 1399.113, 1399.151.1, 1399.160.6, and 1399.170.13, direct staff to make any additional changes to Section 1388.170.13, in accordance with the Board's policy directives, that are needed to address DCA Legal's concerns, submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45- day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Sections 1399.113, 1399.151.1, 1399.160.6, and 1399.170.13 as noticed.

Karen Chang seconded the motion.

The motion carried 6-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, White; Abstain: Snow)

13. Future Agenda Items

Dr. Raggio solicited future agenda items. There was no discussion from the Board.

Dr. Raggio inquired for public comments. Stacy Cooper, a member from the public, inquired about regulatory report item 12(a) and 12(c) and if the Board is considering tele supervision for RPE and SLPA. Ms. Burns replied that the Board has already taken action on regulatory report item 12(a) and its going through the regulatory process, and regulatory report item 12(c) is available for public comment. Ms. Olivares commented on how to receive updates on regulatory changes and opportunities for public participation.

14. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session to Discuss Disciplinary Matters Including Proposed Decisions, Stipulated Decisions, Defaults, Petitions for Reductions in Penalty, Petitions for Reconsideration, and Remands.

The Board met in closed session and subsequently adjourned for the day.

15. Adjournment

The meeting adjourned at 4:56 p.m. on Thursday, August 11, 2022 and after the closed session on Friday, August 12, 2022.

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MEMORANDUM

DATE	October 17, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Marcia Raggio, Board Chair
SUBJECT	Agenda Item 6: Board Chair's Report

The Board Chair will provide a verbal update on Board and Committee activities.

a. 2022 Board Meeting Calendar

MEETING CALENDAR/ AGENDAS/ MINUTES					
Meeting Date	**Location**	**Agenda**	**Meeting Materials**	**Minutes**	**Webcast**
2022					
October 27-28, 2022 Board Meeting	Teleconference	Agenda			Webcast
August 11-12, 2022 Board Meeting	Teleconference	Agenda	Materials Hand Carry – Agenda Item 5 Hand Carry – Agenda Item 12i		Webcast - Aug 11 Webcast - Aug 12 Part 1 Webcast - Aug 12 Part 2
May 12-13, 2022 Board Meeting	Sacramento and Teleconference	Agenda	Materials Hand Carry - Agenda Item AUD 3 Hand Carry - Agenda Item 6 EO Report Hand Carry - Agenda Item 12a Hand Carry - Agenda Item 12f		Webcast - May 12 Webcast - May 13 Part 1 Webcast - May 13 Part 2
February 25, 2022 Board Meeting	Teleconference	Agenda	Materials Hand Carry-Agenda Item 8	Minutes	Webcast
January 13, 2022 Board Meeting	Teleconference	Agenda	Materials	Minutes	Webcast

b. Board Committee Updates and Reports

The Enforcement Ad Hoc Committee, Audiology Practice Committee, and Hearing Aid Dispensing Committee will provide verbal reports regarding their committee meetings.

A list of current committees is provided below.

STANDING COMMITTEES

Standing Committee composition and leadership are determined by the Board President and are fully within the scope of the Open Meetings Act. Standing Committee meetings are often held in conjunction with regularly scheduled Board Meetings.

Addresses changes in practice patterns and recommends position statements		
Name	**Position**	**Profession**
Holly Kaiser	Chair	SLP
Gilda Dominguez	Member	SLP
Debbie Snow	Member	Public

Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.		
Name	**Position**	**Profession**
Marcia Raggio	Chair	DAU
Amy White	Member	DAU
Tulio Valdez	Member	ORL/Public
Karen Chang	Member	Public

Provides policy and regulatory guidance with respect to HAD practices and recommends scope of practice amendments for consideration.		
Name	**Position**	**Profession**
Tod Borges	Chair	HAD
VACANT	Member	HAD
Marcia Raggio	Member	DAU
Amy White	Member	DAU
Tulio Valdez	Member	ORL/Public
Karen Chang	Member	Public

AD HOC COMMITTEES

Ad Hoc Committees may be established by the Board President as needed. Composition and leadership will be appointed by the Board President. Ad Hoc Committees may include the appointment of non-Board members at the Board President's discretion. Ad Hoc Committees are not fully within the scope of the Open Meetings act, however all recommendations made by Ad Hoc Committees must be reviewed and voted on by the Board in a public Board Meeting.

SUNSET REVIEW AD HOC COMMITTEE ***Develop for the Board's review the Board's Sunset Review Report to the California Legislature***		
Name	**Position**	**Profession**
Marcia Raggio	Chair	AU
Holly Kaiser	Member	SLP
ENFORCEMENT AD HOC COMMITTEE ***Review and recommend to the Board proposed revisions to the laws, regulations, and policies related to the Board's enforcement of the Boards Practice Act.***		
Name	**Position**	**Profession**
Debbie Snow	Chair	Public
Holly Kaiser	Member	SLP
LEGISLATIVE AD HOC COMMITTEE ***Review and recommend to the Board proposed positions on legislation impacting the Board, its licensees, and the Board's Practice Act***		
Name	**Position**	**Profession**
Karen Chang	Chair	Public
Marcia Raggio	Member	DAU

Legend:
DAU - Dispensing Audiologist
SLP - Speech-Language Pathologist
ORL/ENT - Otolaryngologist/Ear, Nose & Throat
HAD - Hearing Aid Dispenser
AU - Dispensing Audiologist

Hand Carry Item

Agenda Item 7:
Executive Officer's Report

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MEMORANDUM

DATE	October 11, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer Cherise Burns, Assistant Executive Officer
SUBJECT	Agenda Item #8: Update on the Board's Business Modernization Project and Upcoming Releases of Online Applications for Licensure

Background

Since the last Board meeting, Board staff and management were able to launch the new Apply Simply! online application system and Release 1 application types of Required Professional Experience (RPE) Temporary license (Option #1 - Speech-Language Pathology and Option #1 Audiology), Speech-Language Pathology license applications (Option #1 – RPE Qualification - Permanent Application, Option #2 - Equivalent Qualifications and Option #4 - Previously Licensed in California), and Audiology (Option #1 – RPE Qualification - Permanent Application). A few Speech-Language Pathology license qualification methods were moved to Release 2 to ensure the above options were ready to launch in September.

In coordination with DCA's Communications Division, Board staff created an Apply Simply! page on the Board's website and will provide updates on released applications to this page, as well as to the normal application pages for each license type, throughout the process. To make the information easily visible to applicants, Board staff have also added a button to the Board's website homepage to link applicants to all of the new online applications.

Through the development of the Apply Simply! online application system and the Release 1 applications, Board staff and management have been able to make many process improvements that will have numerous benefits to both Board stakeholders and staff. These improvements took a little additional time to create, test, and launch, but they will have an exponential impact on the Board's ability to achieve its strategic objectives of increased responsiveness to applicants and shorter processing times for

applications. Additionally, due to similarities between application types, the development work done for Release 1 applications will be usable for Release 2 and 3 applications.

Staff and management continue to make significant progress in the development of Release 2 applications and do not anticipate any delays to the launch of Release 2 and Release 3 applications.

The Board's goal continues to be completion of its Business Modernization Project by Spring of 2023 with all initial license applications available online by January 30, 2023. The Board is currently on schedule to achieve this goal within the expected timeframe.

The Apply Simply! online application system and specific applications will be launched in three releases.

- **Release 1 – Went Live Starting on September 21, 2022**

  The Board launched its first two online applications in Release 1, starting on September 21, 2022, with the Required Professional Experience (RPE) Temporary license and followed on September 29, 2022 with the Speech-Language Pathology license.

- **Release 2 – Goes Live November 28, 2022**

  The Board projects to launch its next four online applications in Release 2, which we expect to go live on November 28, 2022. Release 2 will include applications for an Audiology license, Speech-Language Pathology Assistant registration, Speech-Language Pathology and Audiology Aide registration, and the two remaining Speech-Language Pathology license qualification methods (Option #3 – Licensed in Another State, Option #5 – Foreign Educated).

- **Release 3 – Goes Live January 30, 2023**

  The Board projects to launch its remaining nine online applications in Release 3, which we expect to go live on January 30, 2023. Release 3 will include applications for a Hearing Aid Dispenser license, Hearing Aid Dispenser Trainee registration, Branch Office license, Temporary licenses for Speech-Language Pathologists, Audiologists, and Hearing Aid Dispensers, Dispensing Audiology license, and CE Course and CPD Provider applications.

More information regarding the project releases and details will be posted to the Board's website in the coming weeks.

Action Requested

This item is for informational purposes only, no action is required.

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MEMORANDUM

DATE	October 10, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Agenda Item 9: Update and Discussion Regarding the Board's Strategic Plan and Governor Newsom's Executive Order N-16-22

Background

At its February 5, 2021 meeting, the Board approved its Strategic Plan 2021-2024 which outlines five key goal areas, with related strategic objectives and activities that are critical in addressing current consumers and licensees needs. An update on the Board's progress for each of the goal areas is provided later in this memo and will be provided on an annual basis.

On September 13, 2022 Governor Newsom issued Executive Order N-16-22, which requires strategic plans in effect July 2023 and beyond, to be developed or updated to more effectively advance equity and drive outcomes that increase opportunity for all. In response, DCA is revising its strategic planning processes to incorporate more inclusive public engagement, data analysis, and embed diversity, equity, and inclusion (DEI) into the strategic planning process. Starting in March 2023, DCA will begin implementing the revised processes and working with all boards to update existing strategic plans or developing new strategic plans. Starting Spring 2023, the Board will work with DCA to implement Executive Order N-16-22 and update its strategic plan to embed diversity, equity, and inclusion into the Board's Strategic Plan 2021-2024 .

Strategic Plan Progress Summary

The following is a summary of the progress made for each of the Board's five goals:

Goal 1: Licensing - The Board ensures licensing standards protect consumers while permitting reasonable access into the professions.

On September 21, 2022, the Board began providing access to licensing applications and payments through its new online platform Apply Simply!.

Currently, the Board is continuing to launch additional licensing applications and payments through the Apply Simply! online platform and will have every license type fully accessible for online by Spring 2023. The Board will continue working with the DCA Budget Office to utilize the Budget Change Proposal (BCP) process to obtain additional staff resources to meet the demand for licensing services and reduce processing times.

Goal 2: Enforcement - The health and safety of California's consumers is protected through the active enforcement of the laws and regulations governing the practices of speech-language pathology, audiology, and hearing aid dispensing.

Currently, the Board will continue working with the DCA Budget Office to utilize the BCP process to obtain additional staff resources to reduce enforcement timeframes and increase consumer protection.

Goal 3: Outreach and Communications - Consumers and other stakeholders are educated and informed about the practices, and laws and regulations governing the professions of speech-language pathology, audiology, and hearing aid dispensing.

In 2021, the Board began communicating with stakeholders the status of regulations on its website, Currently, the Board continues to educate the public about the regulatory process during its meetings and look for new ways to increase transparency of the regulatory process.

Goal 4: Laws and Regulations - The health and safety of California consumers is protected by the laws and regulations governing the speech-language pathology, audiology and hearing aid dispensing professions.

Through the Sunset Review process, the Board enhanced its ability to communicate with stakeholders by collecting email addresses for licensees and applicants. The Board also enhanced its ability to safeguard consumer protection by improving its ability to regulate Speech-Language Pathology and Audiology Aides. Currently, regulations regarding the appropriate level of supervision for Required Professional Experience and Speech-Language Pathology Assistants are in the regulatory process. The Board is also developing regulations regarding the appropriate level of supervision for Hearing Aid Dispenser Trainees.

Goal 5: Program Administration - The Board is committed to efficiently and effectively utilize resources and personnel to meet our goals and objectives.

The Board effectively utilized resources and personnel to launch its new online application system Apply Simply! that allows more effective utilization of staff resources and increased communication and updates to applicants throughout the process. Because a large percentage of the Board's telephone calls and emails relate to application status update requests and application deficiency

resolution, the new online application system will make a significant impact on the Board's ability to respond to stakeholders.

Action Requested

This item is for informational purposes only, no action is required.

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MEMORANDUM

DATE	October 18, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Agenda Item 10: Discussion and Possible Action Regarding U.S. Food and Drug Administration Final Rule on Medical Devices; Ear, Nose and Throat Devices; Establishing Over-the-Counter Hearing Aids

Background

The U.S. Food and Drug Administration (FDA) Reauthorization Act of 2017 established a category of over-the-counter (OTC) hearing aids and required the FDA to promulgate the regulatory requirements that will apply to them. To establish the OTC category and realign other regulations for hearing aids to reflect the new category, the FDA published proposed regulations for public comment and will eventually publish final regulations, taking public comments into account.

At its January 13, 2022 meeting, the Board discussed the FDA's proposed regulations for OTC Hearing Aids and delegated to the Board Chair and Executive Officer the responsibility of combining and submitting the Board's comments prior to the end of the public comment period. Board staff submitted the Board's comments on January 18, 2022, which was publicly posted on Regulations.gov by the FDA on January 20, 2022. A copy of the Board's comments was provided to the Board at its February 25, 2022 meeting.

As of August 16, 2022, the FDA issued a final rule. The FDA finalized the rule after receiving and reviewing more than 1,000 public comments. Comments are summarized in the final rule, along with FDA's responses. The final rule incorporates several changes from the proposed rule, including lowering the maximum sound output to reduce the risk to hearing from over-amplification of sound, revising the insertion depth limit in the ear canal, requiring that all OTC hearing aids have a user-adjustable volume control, and simplifying the phrasing throughout the required device labeling to ensure it is easily understood. The final rule also includes performance specifications and device design requirements specific to OTC hearing aids.

The effective date for the final rule is October 17, 2022. Manufacturers of hearing aids sold prior to the effective date of the final rule will have 240 days after its publication to comply with the new or revised requirements. For hearing aids that have not been offered for sale prior to the effective date, compliance with the new or revised requirements must be achieved before marketing the device, including obtaining 510(k) clearance if applicable.

The following are FDA's response to the Board's concerns raised in their comments to the FDA's proposed regulations:

Concern #1: The use of the term "dispenser" in the Over-the-Counter Hearing Aid Controls would likely create confusion for consumers

> **Recommendation:** The Board suggests the removal of the word "dispenser" as it relates to OTC hearing aids to make clear that those selling OTC hearing aids are not licensed dispensers.

The FDA declined to remove the word "dispenser" as it relates to OTC hearing aid (pages 50707-50708).

Concern #2: Additional general consumer protections are needed for OTC Hearing Aid outside packaging label requirements

> **Recommendation:** The Board suggests establishing a minimum font size for outside package labeling to ensure that the information is readable and understandable for the most likely consumers of OTC hearing aids.

The FDA declined to establish a minimum font size (pages 50712-50713).

> **Recommendation:** The Board suggests including a warning label on the outside package to inform consumers if the OTC hearing aid contains locked or proprietary programming features that may limit how and where they can get programming assistance with the OTC hearing aid.

The FDA declined to add labeling requirements regarding locked or proprietary programming features (50749-50751).

The FDA added the following consumer protection related labeling requirements:

- For software not distributed with the product (pages 50705-50706, 50720, and 50754).
- To identify the product as an OTC hearing aid (pages 50717-50718, 50735-50736, and 50751).

- Information regarding repair service or replacements (pages 50718 and 50753).

Concern #3: Lack of a federal return policy diminishes consumer protection

> **Recommendation:** The Board suggests a minimal standard of return policy in the regulations governing OTC hearing aids and that this information be provided to consumers on the Outside Package Labeling prior to the "Manufacturer's return policy" in proposed Section 800.30(c)(1)(i)(F). The Board also recommends that the "Manufacturer's return policy" include a phone number and web address where consumers can contact the manufacturer regarding returns.

The FDA declined to establish minimal standard of return policy or change the "Manufacturer's return policy" (pages 50734, 50738-50739, and 50751)

Concern #4: Potential for Consumer Harm from lack of Gain Limits and/or warning on the dangers of prolonged use of upper limit output

> **Recommendation:** The Board suggests that the FDA, at a minimum, should have a warning on the outside package to advise consumers of the danger of prolonged exposure to the upper limit output and amend the text in in proposed Section 800.30(c)(2)(i)(B) to include an identical warning on the inside packaging, as well as require a gain limit of 25dB or a low and high gain limit range.

The FDA declined to add labeling requirements regarding prolong exposure to the upper limit output (pages 50713-50714, 50749-50751, and 50751-50753).

The FDA declined to include gain limit (page 50724).

The FDA did lower output limits to 111 and 117 dB SPL (pages 50720-50724).

Concern #5: Age verification at the time of purchase provides further protection to the hearing health of people younger than 18 years of age.

> **Recommendation:** The Board suggests requiring age verification at the time of purchase as an added consumer protection measure.

The FDA declined to require age verification at the time of purchase (page 50733).

Action Requested

This item is for informational purposes only, no action is required.

Attachment A:	Board's Comments on Proposed Rules: Docket No. FDA–2021–N–0555 for Establishing Over-the-Counter Hearing Aids
Attachment B:	Final Rule: Docket No. FDA– 2021–N–0555 for Establishing Over-the-Counter Hearing Aids
Attachment C:	Letter from U.S. Food and Drug Administration Regarding the Final Rule

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
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January 18, 2022

Janet Woodcock, MD, Acting Commissioner
Dockets Management Staff (HFA–305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852.

RE: Public Comment on Proposed Rules: Docket No. FDA– 2021–N–0555 for Establishing Over-the-Counter Hearing Aids

Dear Acting Commissioner Woodcock:

The California Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) appreciates the opportunity to comment on the U.S. Food and Drug Administration (FDA) proposed rules for establishing over-the-counter (OTC) hearing aids.

The Board is a state agency vested with the authority to regulate the practices of speech-language pathology, audiology, and hearing aid dispensing and regulates approximately 35,000 licensees in the State of California. The Board's mandate and its mission is to protect the public while exercising its licensing, regulatory, and disciplinary functions. The Board protects the public by setting entry-level licensing standards, which includes examination requirements that measure a candidate's professional knowledge and clinical abilities, ensure basic competence and are consistent with the demands of the current delivery systems. In relation to the fitting and sale of hearing aids, this includes requiring individuals who wish to fit and sell hearing aids to demonstrate safe practices when performing hearing testing and taking ear impressions. Additionally, to protect the public, the Board is authorized to discipline licensees who endanger the health, welfare, and safety of the public.

The Board understands the FDA's effort to address the barriers that impede the use of hearing aids in the US and the FDA's effort to establish regulations for the sale and use of OTC hearing aids. The Board reviewed the proposed regulations and believes the language does not impede the Board's regulation of its licensees or the enforcement of California law in relation to its licensees. While the Board's ability to continue regulating the fitting and sale of prescription hearing aids is a critical consumer protection, the ability of individuals to sell, dispense, distribute, or provide customer support for OTC hearing aids without a license creates a potential for consumer harm. Therefore, the Board has significant concerns regarding the proposed regulatory language.

Concern #1: The use of the term "dispenser" in the Over-the-Counter Hearing Aid Controls would likely create confusion for consumers

Proposed Code of Federal Regulations, Title 21, Part 801, Section (hereafter "Section") 801.422(b) would define "Dispenser" as "any person as defined in section 201(e) of the Federal Food, Drug, and Cosmetic Act, engaged in the sale of prescription hearing aids to any member of the consuming public or any employee, agent, salesperson, and/or representative of such a person." Therefore, the use of "dispenser" in the Over-the-Counter hearing aid provisions in Section 800.30, subdivisions (b) and (h)(2)(C) is inappropriate and would likely create confusion for consumers that the dispenser is licensed. The misuse of the word "dispenser" in the proposed regulations disregards the common use of this term associated with professionally-fit prescription hearing aids, and could create major difficulties for states in applying laws related to the licensing and the sale of prescription hearing aids.

Proposed Section 800.30(b) would provide that "A person that represents as a marketer, seller, **dispenser**, distributor, or customer service support representative (or an equivalent description) is not a "licensed person" solely by making such representations." (Emphasis added). Similarly, Section 800.30(h)(2)(C) would provide that "A person shall not incur specialized obligations by representing as a servicer, marketer, seller, **dispenser**, customer support representative, or distributor (or an equivalent description) of OTC hearing aids. However, a person representing as any other defined professional or establishment, or as a State licensed dispenser, is subject to applicable State and local requirements even if the person undertakes commercial or professional activities only in relation to OTC hearing aids." (Emphasis added).

Under the proposed regulations, while those selling OTC hearing aids may be allowed to dispense OTC hearing aids under the Federal Food, Drug, and Cosmetic Act, allowing these individuals to represent themselves as "dispensers" connotes a higher level of knowledge and skill to assist consumers and may create confusion as to who is allowed under federal law to sell prescription hearing aids. In California, the term "hearing aid dispenser" is used to describe a licensed individual and an unlicensed person may not advertise as a dispenser unless they hold a hearing aid dispenser license. (California Business and Professions Code sections 2538.14 and 2538.20). According to the FDA's proposed regulations, the use of the word "dispenser" alone would not imply licensure, which may impact the Board's ability to issue citations to unlicensed individuals relating to the use of the title "Hearing Aid Dispenser" if they, in fact, are only dispensing OTC hearing aids.

> **Recommendation:** The Board suggests the removal of the word "dispenser" as it relates to OTC hearing aids to make clear that those selling OTC hearing aids are not licensed dispensers.

Concern #2: Additional general consumer protections are needed for OTC Hearing Aid outside packaging label requirements

In proposing the outside package labeling requirements, the FDA stated that it believes "this information empowers consumers and answers threshold questions about the suitability of purchasing an OTC hearing aid for their hearing needs." However, the Board believes that it is unrealistic for the FDA to expect that the extensive outside package labeling requirements will empower consumers without an established minimum font size. Due to the fact that the most likely consumer of OTC hearing aids would be elderly individuals, federal regulations should engender protections for these vulnerable consumers so that the outside package labeling, which will most likely be read prior to purchase of the device, is readable and understandable. Without an established minimum font size, the extensive guidance suggested for the OTC hearing device outside package labeling may be printed in small font size so that the manufacturer need not utilize larger packaging.

The proposed regulations would also not include a consumer notification regarding locked or proprietary programming software that could limit the utility of the OTC hearing aid to the consumer. 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 place where it was originally purchased or the specified manufacturer.

To address this problem for prescription hearing aids, the Board sponsored state legislation in 2020 that enacted California Assembly Bill 435 (Chapter 266, Statutes of 2021), which requires dispensers of hearing aids with locked software to provide consumers with a written disclosure that informs the consumer of limitations regarding adjustments to their hearing aid and other related services caused by the locked software. The disclosure states as follows: "The hearing aid being purchased uses proprietary or locked programming software and can only be serviced or programmed at specific facilities or locations." (California Business and Professions Code sections 2538.35 and 2539.4).

Without similar labeling requirements for OTC hearing aids that warn the consumer of locked or proprietary programming features, the use of locked or proprietary software may create barriers for consumers trying to obtain hearing aid adjustments or software updates. The proposed regulations should have protections such that consumers are made aware that the OTC hearing aid they are purchasing has locked or proprietary programming features that is only programmable by the specified manufacturer or authorized retailer.

> **Recommendation:** The Board suggests establishing a minimum font size for outside package labeling to ensure that the information is readable and understandable for the most likely consumers of OTC hearing aids.
>
> **Recommendation:** The Board suggests including a warning label on the outside package to inform consumers if the OTC hearing aid contains locked or

proprietary programming features that may limit how and where they can get programming assistance with the OTC hearing aid.

Concern #3: Lack of a federal return policy diminishes consumer protection

Proposed Section 800.30(h)(3) provides that the proposed regulations would not "modify or otherwise affect the ability of any person to exercise a private right of action under any State or Federal product liability, tort, warranty, contract, or consumer protection law." However, the proposed regulations do not specifically require that OTC hearing aids have a minimum federally consistent return policy. While many well-established retailers may offer a return policy, if online sellers and small store front sellers do not offer a return policy, the consumer will have to use private civil remedies to ensure they can return the OTC hearing aid and be refunded the amount paid since the Board would not have jurisdiction if the seller of the OTC hearing aid is not licensed by the Board. For vulnerable consumers, suing the seller to get a few hundred dollars back may not be a viable option and thus the consumer is ultimately harmed.

> **Recommendation:** The Board suggests a minimal standard of return policy in the regulations governing OTC hearing aids and that this information be provided to consumers on the Outside Package Labeling prior to the "Manufacturer's return policy" in proposed Section 800.30(c)(1)(i)(F). The Board also recommends that the "Manufacturer's return policy" include a phone number and web address where consumers can contact the manufacturer regarding returns.

Concern #4: Potential for Consumer Harm from lack of Gain Limits and/or warning on the dangers of prolonged use of upper limit output

The proposed regulations would require the maximum OSPL90 output level to be 115 dB sound pressure level (SPL) and would permit a limit of 120 dB SPL if an input-controlled compression and a user adjustable device volume control were included features of the OTC hearing aid device. The FDA argues that this would allow ample time for a user to "take appropriate action to mitigate unacceptably high sound levels" such as "adjusting the volume, turning the device off, removing the device from the ear, or moving out of the loud environment." A further justification for not requiring a gain limit is that it, "may unduly constrain the design of effective devices." The proposed rule also provides that the FDA does "not believe a separate, additional gain limit is necessary to provide reasonable assurance of safety and effectiveness" and "that the NASEM report does not recommend any limit on gain for OTC devices, only on maximum output."

The Board believes that it is unrealistic for the FDA to expect consumers to react before being at risk for noise-induced hearing loss due to the fact that the most likely consumer of OTC hearing aids will be elderly individuals who may have reduced cognition, mobility, and/or dexterity. In addition, there is considerable research available, as well, that finds that individuals of any age will have difficulty determining the danger of loud sounds to their hearing. Without a proposed gain limit or range, an output limit only places consumers at risk of overamplification and permanent hearing damage, tinnitus,

and loudness discomfort. Particularly since the guidance does not require that OTC devices have volume controls, by having gain limits or a gain range, appropriate device use would not have to rely on the ability of potentially vulnerable consumers, who may not recognize that sound is too loud in a timely way or who don't have the ability to implement the suggested mitigating strategies. While a low and high gain range is recommended, at a minimum, the gain requirement for a mild-moderate hearing loss is 25dB (2cc coupler, 50dB SPL input level, ANSI S3.22-2014), although gain is typically determined by the exact degree of hearing loss and at which frequencies.

> **Recommendation:** The Board suggests that the FDA, at a minimum, should have a warning on the outside package to advise consumers of the danger of prolonged exposure to the upper limit output and amend the text in in proposed Section 800.30(c)(2)(i)(B) to include an identical warning on the inside packaging, as well as require a gain limit of 25dB or a low and high gain limit range.

Concern #5: Age verification at the time of purchase provides further protection to the hearing health of people younger than 18 years of age.

The proposed regulations would establish a condition for the sale of OTC hearing aids that would prevent the sale to people younger than 18 years of age in an effort to provide reasonable assurance of safety and effectiveness. However, it would not require sellers to verify the age of purchasers, or in the case of online or mail-order sales, the age of the recipient. The Board believes that a requirement that sellers verify the age of purchasers at the time of purchase would best protect the hearing health of people younger than 18 years while promoting access to OTC hearing aids. This type of quick age verification is neither overly burdensome nor creates barriers to accessing OTC hearing aids.

> **Recommendation:** The Board suggests requiring age verification at the time of purchase as an added consumer protection measure.

The Board thanks the FDA for its consideration of these significant comments and looks forward to the FDA's response. Should you have any questions, please contact Paul Sanchez, Executive Officer, at (916) 905-5452 or paul.sanchez@dca.ca.gov.

Sincerely,

Original signature on file

Marcia Raggio, Ph.D., Board Chair
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

cc: Paul Sanchez, Executive Officer, Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

Agenda Item 4 – Attachment A

Attachment A is the notice from the August 17, 2022 Federal Register regarding the Final Rule by the Federal Food and Drug Administration on ***"Medical Devices; Ear, Nose, and Throat Devices; Establishing Over-the-Counter Hearing Aids"***.

This document is available online at https://www.govinfo.gov/content/pkg/FR-2022-08-17/pdf/2022-17230.pdf

October 13, 2022

Dear State Official:

It has come to our attention that there may be some confusion with FDA's final rule establishing a regulatory category for over-the-counter (OTC) hearing aids and amending certain FDA regulations. We published the final rule on August 17, 2022, and it goes into effect on October 17, 2022 (see 87 FR 50698). The final rule primarily establishes a category of OTC hearing aids that consumers aged 18 years and older with perceived mild to moderate hearing impairment can purchase without the involvement of a hearing healthcare professional. The final rule also makes several changes to Federal regulations that apply to hearing aids, including: repealing the conditions for sale for hearing aids under 21 CFR § 801.421; defining non-OTC hearing aids as prescription devices, subject to 21 CFR § 801.109, rather than restricted devices (see 87 FR at 50755, removing § 801.421); and providing updated labeling requirements for such prescription hearing aids (see *id.*, adding new 21 CFR § 801.422).

We have received questions about some implications of these actions, including who may prescribe hearing aids and whether medical evaluations are necessary to obtain non-OTC hearing aids, which will be defined as prescription hearing aids under the rule. We clarify below that the final rule:

- Does not change the necessary qualifications of who may provide hearing healthcare with prescription hearing aids, including the recommendation, selection, fitting, and dispensing of these devices;
- Does not require an additional professional to take actions, for example, does not in any way require a physician's involvement prior to fitting these devices; and
- Does not require an examination of any kind to obtain a prescription hearing aid.

A State can authorize many kinds of practitioners to order the use of (or prescribe) a prescription device. Federal regulations in § 801.109 do not require that a prescriber be a physician (a person licensed to practice allopathic or osteopathic medicine), physician assistant, or nurse practitioner. Instead, the relevant requirements for prescription devices apply in the case of practitioners licensed by the law of the State to use or order the use of the device (see § 801.109). FDA's intent is that the same professionals who recommended, selected, fitted, and dispensed restricted hearing aids before the effective date would continue to do so for prescription hearing aids after the effective date. Further, the final rule does not require the involvement of an additional licensed practitioner such as a physician. A licensed audiologist, for example, would not need to consult a physician under FDA's final rule.

U.S. Food & Drug Administration
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Similarly, Federal regulations in § 801.109 do not require that a prescriber provide or require a medical or other examination prior to using or ordering the use of a prescription device. As has been observed elsewhere, medically treatable causes of hearing loss are relatively rare, and while certain circumstances may warrant the involvement of a physician in some individual cases—for example, those included as "red flag conditions" in required labeling for prescription hearing aids—the final rule does not state or imply that a medical evaluation is generally necessary or generally more advisable for people 18 and older under Federal regulations to obtain a prescription hearing aid.[1]

Regarding terminology and the use of the word "prescription," we note that FDA regulations for prescription devices refer to a "prescription *or other order*" (emphasis added) and a practitioner who is licensed "to use or order the use" of the device (see § 801.109). Therefore, the document or action to obtain a prescription hearing aid need not be called a "prescription" under State law. Thus, for example, if a hearing aid purchaser obtained a document called a "hearing aid use authorization" or a "hearing aid certificate of need" from an audiologist or hearing instrument specialist who had authority in that State to provide such a document, this would likely satisfy the practitioner-order requirements under § 801.109.

In conclusion, the final rule defining non-OTC hearing aids as prescription devices does not, and is not intended to, create barriers to accessing hearing aids, including prescription devices. It does not require the involvement of different or additional health care providers or examinations upon the effective date.

States or localities that have questions may contact FDA's Intergovernmental Affairs Staff at IGA@fda.hhs.gov.

Sincerely,

Jeffrey Shuren, M.D., J.D.
Director
Center for Devices and
Radiological Health

[1] *See* reference 7 for the final rule, from the National Academies of Sciences, Engineering, and Medicine, "Hearing Healthcare for Adults: Priorities for Improving Access and Affordability," Board on Health Sciences Policy, Committee on Accessible and Affordable Hearing Health Care for Adults; Blazer, D.G., S. Domnitz, and C.T. Liverman, Eds., 2016. DOI: 10.17226/23446. Available at: https://www.nap.edu/catalog/23446/hearing-health-care-for-adults-priorities-for-improving-access-and. Unlike conditions such as otitis media (an infection of the middle ear) or ear canal blockages, "most sensorineural hearing loss…cannot be repaired using current medical or surgical interventions," (p. 22).

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MEMORANDUM

DATE	October 14, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Tod Borges, Board Member, Hearing Aid Dispenser Paul Sanchez, Executive Officer
SUBJECT	Agenda Item 11: Discussion and Possible Action Regarding Foreign Body In The Ear Canal as stated in Business and Professions Code Sections 2538.36

Background

In July 2022, the Board received an inquiry regarding whether there is any statutory or regulatory language that would restrict a Hearing Aid Dispenser from performing a dome removal if appropriate training is provided and appropriate safeguards and policies are in place to limit dome removal to lower-risk clients.

The individual inquiring stated the following:

> *"The fitting of Receiver-In-the-Canal (RITE) hearing aids is very common and includes the attachment of a silicon or plastic dome that fits snugly in the ear canal. These domes are intended for patients to replace them on a regular basis to maintain proper function of the hearing aids. Domes may become unattached from the amplification hardware and lodged into the patient's ear canal due to a variety of reasons."*

In the proposed policy provided to the Board regarding allowing hearing instrument specialists (Hearing Aid Dispensers) to perform dome removal, they require additional training and certification by a clinical training team on dome removal, but the policy specifically states the procedure and post procedure steps for dome removal as follows:

> *"Procedures:*
>
> 1. *Step 1: Patient completes and signs the Dome Removal Consent Form. If "Yes" is answered on any of the consent form questions, cease in-clinic removal process, and recommend removal through urgent care or primary care physician services.*
> 2. *Step 2: Use an otoscope to determine position of the dome in the canal. If dome is past the second bend, close to the Tympanic Membrane, cease in-clinic removal process and recommend removal through urgent care or primary care physician services.*
> 3. *Step 3: Inform the patient of the status of the dome.*
> 4. *Step 4: Wipe the tip of the forceps with an alcohol prep pad/ wipe.*

5. *Step 5: Have a gloved assistant pull up and back on the pinna of the patient.*
6. *Step 6: Using a light source, such as an otoscope or a head lamp, direct the light into the canal to illuminate the space.*
7. *Step 7: Use the forceps to grasp a part of the dome that is closest to the opening of ear canal, gently rock back and forth to maneuver the dome towards the opening of the canal. Pull dome completely out and show to patient to confirm removal was completed. Dispose of dome, do not reuse.*
8. *Step 8: Once removed use the otoscope to inspect the canal for any abrasion. See Post Procedures below for instructions regarding abrasions.*
9. *Step 9: Review with the patient proper dome cleaning and replacement methods.*
10. *Step 10: Clean forceps using Infection Control procedures described in Post Procedures."*

"Post Procedures

Inspect ear canal for any signs of redness or abrasions.

- *Slight Abrasion in Ear Canal with Minimum Bleeding and/or Soreness:*
  - *Advise patient to refrain from placing any objects into the affected ear canal such as hearing aid, Q-tip, earbuds, earphones, etc., for three days.*
  - *Advise patient to refrain from water getting into the affected ear canal ear for three days.*
  - *After three days and patient does not experience soreness, they may resume wearing their hearing aid and any other wearable objects in the healed ear canal.*
  - *Advise patient to follow proper dome replacement procedures in Step 9 above.*
- *Significant Abrasion/Laceration in Ear Canal with Continuous Bleeding and Pain:*
  - *If continuous bleeding occurs and patient experiences significant pain during or up to 3-days post procedure, advise patient to pursue medical consultation either through an urgent care clinic or their regular primary care physician.*
  - *Complete an Incident Report and submit to [email] and to [company specific].*
  - *Call patient in 24-hours as a follow up to inquire and document the outcome of medical consultation and current wellbeing status.*
  - *Report any adverse comments from follow up call to [email] and to [company specific]."*

Relevant Board Practice Act Provisions

Business and Professions Code (BPC) Section 2538.36(a)(7) requires that, if there is "Visible evidence of significant cerumen accumulation or a foreign body in the ear canal" of a hearing aid user, a Hearing Aid Dispenser must make a written recommendation to the hearing aid user that consulting with a licensed physician is in their best interest prior to fitting or selling a hearing aid. The licensed physician is a

licensed physician who specialize in diseases of the ear or, if no such licensed physician is available in the community, a duly licensed physician.

BPC Section 2538.14 defines a Hearing Aid Dispenser as “a person engaged in the practice of fitting or selling hearing aids to an individual with impaired hearing.” BPC Section 2538.11 defines the practice of fitting or selling hearing aids as the “practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.” It further clarifies that a Hearing Aid Dispenser cannot conduct diagnostic hearing tests.

BPC Section 2530.2 defines the practice of audiology and the allowance for Audiologists to perform the “nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures” for a client. **BPC Section 2939.6 also requires Dispensing Audiologists to make a written recommendation to the hearing aid user that consulting with a licensed physician is in their best interest prior to fitting or selling a hearing aid if the client has “Visible evidence of significant cerumen accumulation or a foreign body in the ear canal”.**

There are currently no other statutes or regulations that discuss if foreign body removal is allowed for Dispensing Audiologists (like there is for cerumen removal), or under what circumstances foreign body removal from the ear is allowed for Hearing Aid Dispensers.

Action Requested

Board staff recommend the Board review the statutory language related to this topic and determine if referral to the Hearing Aid Dispensing Committee for further discussion and clarification is required regarding what a Hearing Aid Dispenser can do in relation to hearing aid dome removal.

Attachment: Statutory Language Related to Business and Professions Code Sections 2538.36

Agenda Item 11 - Attachment: Statutory Language Related to Business and Professions Code Sections 2538.36

Business and Professions Code

Section 2538.36 (a) Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

(4) Acute or chronic dizziness.

(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.

(6) Significant air-bone gap (when generally acceptable standards have been established).

(7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.

(8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 2538.38. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

Section 2539.6 (a) Whenever any of the following conditions are found to exist either from observations by the licensed audiologist or on the basis of information furnished by the prospective hearing aid user, a licensed audiologist shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in

diseases of the ear or if no licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active, drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

(4) Acute or chronic dizziness.

(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.

(6) Significant air-bone gap (when generally acceptable standards have been established).

(7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.

(8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any licensed audiologist in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensed audiologist for the period provided for in Section 2539.10. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensed audiologist for the period provided for in Section 2539.10. Nothing in this section required to be performed by a licensed audiologist shall mean that the licensed audiologist is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

2538.14 “Hearing aid dispenser,” as used in this article, means a person engaged in the practice of fitting or selling hearing aids to an individual with impaired hearing.

2538.11 (a) “Practice of fitting or selling hearing aids,” as used in this article, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

The practice of fitting or selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of the audiometer or other equipment shall be checked at least annually.

(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the practice of fitting or selling hearing aids.

(c) Hearing tests conducted pursuant to this article shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the board.

Section 2530.2 subdivisions (k-l) and (p)
(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.

(l) A “dispensing audiologist” is a person who is authorized to sell hearing aids pursuant to his or her audiology license.

(p) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

> (1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.
>
> (2) Approval by the supervising physician of the written standardized protocol.
>
> (3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

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MEMORANDUM

DATE	October 18, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Marcia Raggio, Board Chair Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Agenda Item 12: Overview and Discussion on the Need for a New License Type for Audiology Assistants Under the Board's Regulation

Background

The Board previously discussed the scope and tasks that could be performed by Audiology Aides. As part of the Sunset Review process, the Legislature added a renewal requirement to the Aide registration which requires the supervising Audiologist to update the Board on the duties the aide performs and the training and assessment methods the supervisor will use to ensure the Aide's continued competency.

In light of the Sunset Review discussions regarding Audiology Aides, and the limited scope of the registration, there may be a need within the practice of audiology for an audiology assistant license type. This new license type could have a scope of practice above the Audiology Aide but still under the supervision of an Audiologist, similar to a Speech-Language Pathology Assistant.

If the Board is interested in pursuing the creation of an audiology assistant license type, the Board will have to complete the Sunrise Process through the Legislature and this will require a significant amount of research, outreach to stakeholders, data collection, and fiscal information to start the process to submit a complete report for the Sunrise Process and legislative advocacy work to complete the process.

Sunrise Process

Pursuant to Government Code section 9148, any category of licensed professional proposed for creation by the Legislature must go through the legislative "sunrise process." Government Code section 9148.4 requires the sponsor of the legislation to develop a plan for the establishment of the new category of licensed professional. Please see the included review of the sunrise process and the sunrise questionnaire developed by the Assembly Business and Professions (B&P) Committee.

Action Requested

Staff recommends the Board review and discuss the provided materials. The Board may want to refer this to the Audiology Practice Committee to review in detail the Sunrise Process, determine the level of workload needed by all parties to dedicate to the Sunrise Process, and then develop a recommendation to the Board on whether to pursue the Sunrise Process to create an audiology assistant license type.

Attachment A: Assembly B&P Committee's Review of the Sunrise Process
Attachment B: Assembly B&P Committee's Sunrise Questionnaire

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
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MEMORANDUM

DATE	October 20, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Agenda Item 13: Update and Discussion Regarding the Board's 2022 Sunset Review and the Board's Sunset Bill, Assembly Bill (AB) 2686

Background

Each year, the Assembly Business and Professions Committee and the Senate Business, Professions, and Economic Development Committee hold joint Sunset Review oversight hearings to review the boards and bureaus under the Department of Consumer Affairs (DCA). The sunset review process provides an opportunity for DCA, the Legislature, the boards and bureaus, and stakeholders to discuss the performance of the boards and bureaus, make recommendations for improvements, and extend the sunset date of a board or bureau.

The sunset date of a board or bureau is decided by the Legislature. Typically, if there aren't any major concerns or deficiencies with a board or bureau, the Legislature will set a four-year sunset date. The Board's sunset date and provisions can be found in Business and Professions Code section 2531. The Board's sunset date was initially set at January 1, 2022, which would have had our Sunset Review oversight hearing scheduled for Spring 2021; however, due to the COVID-19 pandemic and delays in the 2020 Sunset Review oversight hearings, the sunset date for our Board was extended by a year until January 1, 2023, which puts our Sunset Review oversight hearing in Spring of 2022.

Update

The Board completed the Sunset Review Report at its November 2021 Board Meeting and submitted the final report to both the Assembly Business and Professions and Senate Business, Professions, and Economic Development Committee on January 5, 2022.

On March 2, 2022 the Board received a draft of the Joint Sunset Review Oversight Committee's (Committee's) Background Paper, which is the Committee staff's summary of the Board's Sunset Review Report that identifies issues and questions that the Committee would like the Board to provide a written response to within a month of the Board's hearing.

On March 10, 2022 the Board Chair, Vice Chair, and Executive Officer represented the Board at the Joint Sunset Review Oversight Committee hearing. The Board was asked a number of questions by legislators on the committees relating to the Board's operations and also received supportive comments and accolades for the Board's accomplishments.

Following the Sunset Review oversight hearing the Executive Officer and Assistant Executive Officer began meeting with Committee staff to address any issues raised by the Background Paper, issues raised by legislators during the hearing, and discuss potential amendments to the Board's Practice Act that may get included in the Board's Sunset Bills (AB 2686). During this time, Board staff also worked with the Board Chair and Vice Chair to respond to the Committees questions. The Board's written response was provided to Committee staff on April 11, 2022 and to the Board at its May meeting.

At the May 2022 meeting, we reported that not all requested Practice Act changes had been obtained. Since that time, the Executive Officer and Assistant Executive Officer continued to work with Committee staff to obtain as much of the Board's requested Practice Act changes as possible. We are pleased to report to the Board that currently, AB 2686 includes most all of the Board's requested changes to its Practice Act. A summary of each of the changes is provided below.

- Extends the Board's authority to regulate the professions of Speech-Language Pathology, Audiology, and Hearing Aid Dispensing through January 1, 2027.

- Requires Speech-Language Pathology and Audiology Aide registrations to expire every two years and requires the supervisor of the Aide to update the Board on the duties the aide performs while assisting the supervisor in the practice of speech-language pathology or audiology, and the training program and assessment methods the supervisor is utilizing to ensure the aide's continued competency.

- Updates the definition of an Audiology Aide to conform to the definition of a Speech-Language Pathology Aide so it is clear that the aide works directly under the supervision of an audiologist.

- Requires all applicants, licensees, and registrants to provide the Board with their email address no later than July 1, 2023 and to update the Board within 30 calendar days of a change to the email address. The Board is required to keep email addresses confidential and not disclose this information publicly.

- Removes the statutory requirement for the Board to have a Hearing Aid Dispensing Committee with specified members and mandated purpose. This simply gives back the authority to the Board to determine the name, composition, and purpose of all its committees.

- Authorizes appointing authorities to remove a Board Member at any time.

- Removes the restriction that the required supervised professional experience for licensure as an Audiologist follow completion of the didactic and clinical rotations of the audiology doctoral program. This will allow audiology students to apply for their Required Professional Experience Temporary license sooner than is currently allowed.

- Reauthorizes the American Speech-Language-Hearing Association's Certificate of Clinical Competence in Audiology to deem an individual to have met the educational and experience requirements for licensure and authorizes the American Board of Audiology certificate issued by the American Academy of Audiology to deem the same. This will streamline the licensure process for audiologists licensed in another state or territory.

- Adds the following unprofessional conduct activities to the statute that allows the Board to deny a license to an applicant, or suspend, revoke, or impose terms and conditions upon a licensee:
    - Engaging in any act in violation of Business and Professions Code (BPC) Section 650, which prohibits licensees from offering or receiving consideration in exchange for patient referrals.
    - Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of speech-language pathology, audiology, or hearing aid dispensing.
    - Aiding or abetting any person to engage in the unlicensed practice of speech-language pathology, audiology, or hearing aid dispensing.
    - Violating or attempting to violate, directly or indirectly, any of the Practice Act.

- Requires a specified period of time to elapse before a person whose license has been revoked or suspended or placed on probation may petition the Board for reinstatement or modification of penalties. It also specifies under what circumstances a petition will not be considered and when the Board may deny a petition without hearing or argument.

- Provides technical cleanup to the Board's Practice Act by updating various sections to include references to BPC Section 2532.25, removing nonoperative statutory provisions and gendered language, and makes other technical changes.

AB 2686 was approved by both houses of the legislature on August 31, 2022 and signed by the Governor September 18, 2022, the Board's new sunset date and changes to its Practice Act will go into effect on January 1, 2023.

Implementation activities for AB 2686 include the following activities:

<u>Hearing Aid Dispensing Committee and Board Committee Changes</u>

The revised Practice Act provisions allow the Board Chair to determine the size and composition of the Hearing Aid Dispensing Committee. Board staff recommends that the Chair reduce the size of the Hearing Aid Dispensing Committee to four members, one Hearing Aid Dispenser, one Dispensing Audiologist, one Public Member, and the one public member that is an Otolaryngologist, unless the position is vacant and another Public Member could temporarily occupy the position until another Otolaryngologist is appointed to the Board. Board staff also

recommend revising the purpose of the committee to deal with issues that impact both Hearing Aid Dispenser and Dispensing Audiologist practices.

Board staff also recommend creation of a Hearing Aid Dispensers Practice Committee similar to that of the Speech-Language Pathology Practice Committee and Audiology Practice Committee, whose purpose is to address changes in practice patterns and recommend position statements and/or scope of practice amendments for consideration of the full Board.

Speech-Language Pathology and Audiology Aides

Due to the lead time that it takes to implement the Aide changes within the Board's IT systems, Board staff will be working with DCA Office of Information Services and Cashiering Support on the creation of the renewal capabilities for Aides. The Board expects these changes to not be ready to implement until at least July 1, 2023. Board staff will also begin creating a renewal form for the Aide registration and advisory materials to be mailed to current Aide supervisors about the upcoming changes.

All Applicants and Licensee E-mail Collection

Board staff will work with DCA OIS to update all renewal form templates to include providing or updating the licensees email address. Due to the lead time that it takes to implement these types of changes to renewal forms, this may also not be implementable immediately and may be delayed until July 1, 2023. Board staff will also work on updating the address change form to include updates to their email addresses, this change should be available January 1, 2023.

Audiology RPE Changes

Due to the nature of the language of the change that would allow the Audiology RPE experience to begin prior to the completion of their didactic coursework and clinical rotations, this item will be implemented only upon receipt of guidance from the Board, and most likely through the regulatory process. Currently, the Audiology Practice Committee is working on this issue and will bring a recommendation to the Board after thorough investigation. Upon receipt of guidance from the Board, Board staff will implement this provision as quickly as possible.

Audiology Deeming Authority (Reciprocity-Lite)

Board staff are in the process of updating and adding the appropriate license application with equivalency qualification methods to include American Board of Audiology certificate issued by the American Academy of Audiology and will include this with the Release 3 launch of Apply Simply! in January 2023. The downloadable forms for this application will also be posted to the Board's website once the change is effective (January 1, 2023).

Updates to Unprofessional Conduct Provisions

Board staff will be working to update necessary IT systems and Board forms, as necessary, to implement the changes to the Unprofessional Conduct provisions. This may include the development of website content to educate Board licensees.

Changes to Petitions for Reinstatement or Modification of Penalties

Board staff will be working to update necessary IT systems and Board forms, as necessary, to implement the changes to the petition process. This may include the development of website content to educate Board licensees and former licensees whose licenses have been revoked.

Action Requested

This item is for informational purposes only, no action is required.

Attachment: Chaptered Text of AB 2686

AB-2686 Speech-language pathologists, audiologists, and hearing aid dispensers.

As Amends the Law Today

SECTION 1.
The heading of Chapter 5.3 (commencing with Section 2530) of Division 2 of the Business and Professions Code is amended to read:

CHAPTER 5.3. Speech-Language Pathologists, Audiologists, and Hearing Aid Dispensers

SEC. 2.
Section 2530.2 of the Business and Professions Code is amended to read:

2530.2.
As used in this chapter, unless the context otherwise requires:
(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.
(c) A “speech-language pathologist” is a person who practices speech-language pathology.
(d) The practice of speech-language pathology means all of the following:
(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.
(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.
(3) Conducting hearing screenings.
(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility’s training protocols on suctioning procedures.
(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.
(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.
(f) A licensed speech-language pathologist shall not perform a flexible fiber optic nasendoscopic procedure unless ~~he or she has~~ *they have* received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiber optic nasendoscopic procedures and ~~is~~ *they are* competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiber optic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.
(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) “Speech-language pathology aide” means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.
(i) (1) “Speech-language pathology assistant” means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.
(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a “clear” credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.
(j) An “audiologist” is one who practices audiology.
(k) “The practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, 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.
(l) A “dispensing audiologist” is a person who is authorized to sell hearing aids pursuant to ~~his or her~~ *their* audiology license.
(m) “Audiology aide” means 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~~ *board who works directly* 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~~ *their* employer has established a set of procedures or protocols that the aide shall follow in performing these functions.
(n) “Medical board” means the Medical Board of California.
(o) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.
(p) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:
(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.
(2) Approval by the supervising physician of the written standardized protocol.
(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 2.5.
Section 2530.2 of the Business and Professions Code is amended to read:

2530.2.
As used in this chapter, unless the context otherwise requires:
(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.
(c) A “speech-language pathologist” is a person who practices speech-language pathology.
(d) The practice of speech-language pathology means all of the following:
(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.
(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.
(3) Conducting hearing screenings.
(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility’s training protocols on suctioning procedures.
(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy. *Passage of these instruments without the presence of a physician and surgeon is subject to paragraph (2).*
(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.
(f) A licensed speech-language pathologist shall not perform a flexible fiber optic ~~nasendoscopic~~ *transnasal endoscopic* procedure unless ~~he or she has~~ *they have* received written verification from ~~an~~ *one* otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 *supervised* flexible fiber optic ~~nasendoscopic~~ *transnasal endoscopic* procedures and ~~is~~ *they are* competent to perform these procedures. *Of these 25 procedures, the first 10 procedures shall be supervised by a licensed physician and surgeon who performs nasal endoscopy as part of their practice and the subsequent 15 procedures shall be supervised by either a licensed physician and surgeon who performs nasal endoscopy as part of their practice or by another licensed speech-language pathologist that is verified as competent in performing flexible fiber optic transnasal endoscopic procedures.* The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist *with a verification on file* shall pass a flexible fiber optic ~~nasendoscopic~~ *transnasal endoscopic* instrument only ~~under~~ *upon* the ~~direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.~~ *orders of a licensed physician and surgeon. The order by physician and surgeon is deemed to allow a speech-language pathologist with verification, in accordance with this paragraph, to perform fiber optic transnasal endoscopic procedures at a location based on the patient’s medical needs that complies with procedures specified in paragraph (1) of subdivision (g).*
(g) *(1)* A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in ~~a setting~~ *the following settings* that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(A) A clinic, as defined in Section 1200 of the Health and Safety Code.
(B) A facility described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.
(C) A health facility, as defined in Section 1250 of the Health and Safety Code.
(D) A hospice facility licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code.
(E) A medical group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services.
(2) A licensed speech-language pathologist performing flexible fiber optic transnasal endoscopic procedures on patients who have contraindications to the procedure shall consult and document clearance with the physician and surgeon that the licensed speech-language pathologist can safely perform the procedure. For purposes of this paragraph, contraindications for these procedures may include, but are not limited to, cases of bilateral obstruction of nasal passages, refractory epistaxis, cardiac disorder with acute risk of vasovagal episode and bradycardia, history of vasovagal episodes, facial trauma, recent trauma to the nasal cavity, or surrounding tissue and structures secondary to surgery or injury, severe bleeding disorders, severe movement disorders, severe agitation, and inability to cooperate with the examination.
(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.
(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.
(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.
(j) An "audiologist" is one who practices audiology.
(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, 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.
(l) A "dispensing audiologist" is a person who is authorized to sell hearing aids pursuant to ~~his or her~~ *their* audiology license.
(m) "Audiology aide" means 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~~ *board who works directly* 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~~ *their* employer has established a set of procedures or protocols that the aide shall follow in performing these functions.
(n) “Medical board” means the Medical Board of California.
(o) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.
(p) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:
(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.
(2) Approval by the supervising physician of the written standardized protocol.
(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.
(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 3.
Section 2530.5 of the Business and Professions Code is amended to read:

2530.5.
(a) Nothing in this chapter shall be construed as restricting hearing testing conducted by licensed physicians and surgeons or by persons conducting hearing tests under the direct supervision of a physician and surgeon.
(b) Nothing in this chapter shall be construed to prevent a licensed hearing aid dispenser from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids nor does this chapter restrict persons practicing their licensed profession and operating within the scope of their licensed profession or employed by someone operating within the scope of their licensed professions, including persons fitting and selling hearing aids who are properly licensed or registered under the laws of the State of California.
(c) Nothing in this chapter shall be construed as restricting or preventing the practice of speech-language pathology or audiology by personnel holding the appropriate credential from the Commission on Teacher Credentialing as long as the practice is conducted within the confines of or under the jurisdiction of a public preschool, elementary, or secondary school by which they are employed and those persons do not either offer to render or render speech-language pathology or audiology services to the public for compensation over and above the salary they receive from the public preschool, elementary, or secondary school by which they are employed for the performance of their official duties.
(d) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern in speech-language pathology pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of ~~his or her~~ *their* supervised course of study and that those persons are designated by the title as “speech-language pathology intern,” “speech-language pathology trainee,” or other title clearly indicating the training status appropriate to ~~his or her~~ *their* level of training.
(e) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern in audiology pursuing a course of study leading to a degree in audiology at an

accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of ~~his or her~~ *their* supervised course of study and that those persons are designated by the title as “audiology intern,” “audiology trainee,” or other title clearly indicating the training status appropriate to ~~his or her~~ *their* level of training.
(f) Nothing in this chapter shall be construed as restricting the practice of an applicant who is obtaining the required professional experience specified in subdivision (c) of Section 2532.2 *or subdivision (b) of Section 2532.25* and who has been issued a temporary license pursuant to Section 2532.7. The number of applicants who may be supervised by a licensed speech-language pathologist or a speech-language pathologist having qualifications deemed equivalent by the board shall be determined by the board. The supervising speech-language pathologist shall register with the board the name of each applicant working under ~~his or her~~ *their* supervision, and shall submit to the board a description of the proposed professional responsibilities of the applicant working under ~~his or her~~ *their* supervision. The number of applicants who may be supervised by a licensed audiologist or an audiologist having qualifications deemed equivalent by the board shall be determined by the board. The supervising audiologist shall register with the board the name of each applicant working under ~~his or her~~ *their* supervision, and shall submit to the board a description of the proposed professional responsibilities of the applicant working under ~~his or her~~ *their* supervision.
(g) Nothing in this chapter shall be construed as restricting hearing screening services in public or private elementary or secondary schools so long as these screening services are provided by persons registered as qualified school audiometrists pursuant to Sections 1685 and 1686 of the Health and Safety Code or hearing screening services supported by the State Department of Health Care Services so long as these screening services are provided by appropriately trained or qualified personnel.
(h) Persons employed as speech-language pathologists or audiologists by a federal agency shall be exempt from this chapter.
(i) Nothing in this chapter shall be construed as restricting consultation or the instructional or supervisory activities of a faculty member of an approved or accredited college or university for the first 60 days following appointment after the effective date of this subdivision.

SEC. 4.
Section 2530.6 of the Business and Professions Code is amended to read:

2530.6.
(a) Speech-language pathologists and audiologists supervising speech-language pathology or audiology aides shall register with the board the name of each aide working under their supervision.
(b) The number of aides who may be supervised by a licensee shall be determined by the board.
~~Speech-language~~ *(c)* ~~pathologists and audiologists supervising speech-language pathology or audiology aides shall register with the board the name of each aide working under their supervision. The number of aides who may be supervised by a licensee shall be determined by the board.~~
~~The~~ *The* supervising audiologist or speech-language pathologist shall be responsible for the extent, kind, and quality of services performed by the aide, consistent with the board’s designated standards and requirements.
(d) A speech-language pathology and audiology aide registration shall expire every two years and is subject to the renewal requirements in Article 6 (commencing with Section 2535).
(e) At the time of registration renewal, the speech-language pathologist or audiologist supervising the speech-language pathology or audiology aide shall update the board on the duties the aide performs while assisting the supervisor in the practice of speech-language pathology or audiology, and the training program and assessment methods the supervisor is utilizing to ensure the aide’s continued competency.

SEC. 5.
Section 2530.7 is added to the Business and Professions Code, to read:

2530.7.
(a) An applicant, registrant, or licensee who has an email address shall provide the board with that email address no later than July 1, 2023. The email address shall be considered confidential and not subject to public disclosure.
(b) An applicant, registrant, or licensee shall provide to the board any changes to their email address no later than 30 calendar days after the changes have occurred.
(c) The board shall remind registrants and licensees of their obligation to report and keep current their email address with the board.
(d) For purposes of this section, "applicant, registrant, or licensee" means any person who applies for or holds a license, registration, or approval under this chapter, including, but not limited to, a speech-language pathologist, speech-language pathology aide, speech-language pathology assistant, audiologist, dispensing audiologist, audiology aide, or hearing aid dispenser.

SEC. 6.
Section 2531 of the Business and Professions Code is amended to read:

2531.
(a) There is in the Department of Consumer Affairs the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the ~~enforcement and administration~~ *enforcement, administration, and other regulatory duties* of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.
(b) This section shall remain in effect only until January 1, ~~2023,~~ *2027,* and as of that date is repealed.
(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 7.
Section 2531.05 of the Business and Professions Code is repealed.

~~**2531.05.**~~
~~(a) The Hearing Aid Dispensing Committee is hereby created within the jurisdiction of the board.~~
~~(b) The committee shall be comprised of the following board members:~~
~~(1) The two licensed audiologists.~~
~~(2) The two licensed hearing aid dispensers.~~
~~(3) One public member of the board.~~
~~(4) The public member of the board who is a licensed physician and surgeon and who is board certified in otolaryngology.~~
~~(c) The committee shall review and research the practice of fitting or selling hearing aids and shall advise the board about this practice based on that review and research.~~

SEC. 8.
Section 2531.1 of the Business and Professions Code is amended to read:

2531.1.
(a) Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of ~~his or her~~ *that member's* successor or until one year has elapsed since the expiration of the term for which ~~he or she~~ *the member* was appointed, whichever first occurs. No member may serve for more than two consecutive terms.

(b) Notwithstanding the four-year terms set by subdivision (a), commencing on November 30, 2004, members appointed to the board shall serve the terms set forth below. Each of these terms shall count as a full term for purposes of subdivision (a).
(1) The two public members appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively, shall each serve a term of one year.
(2) One licensed speech-language pathologist and one licensed audiologist, as designated by the appointing ~~power,~~ *authority,* shall each serve a term of two years.
(3) One licensed speech-language pathologist and one licensed audiologist, as designated by the appointing ~~power,~~ *authority,* and the public member who is a licensed physician and surgeon, board certified in ~~otaryngology,~~ *otolaryngology,* shall each serve a term of three years.
(4) One licensed speech-language pathologist and one licensed audiologist, as designated by the appointing ~~power,~~ *authority,* shall each serve a term of four years.
(c) Upon completion of each of the terms described in subdivision (b), a succeeding member shall be appointed to the board for a term of four years.
(d) Each appointing authority shall have the power to remove from office at any time any member of the board appointed by that appointing authority.

SEC. 9.
Section 2531.75 of the Business and Professions Code is amended to read:

2531.75.
(a) The board may appoint a person exempt from civil service who shall be designated as an executive ~~officer and who~~ *officer. The executive officer* shall exercise the powers and perform the duties delegated by the board and vested in them by this chapter.
(b) This section shall remain in effect only until January 1, ~~2023,~~ *2027,* and as of that date is repealed.

SEC. 10.
Section 2532.25 of the Business and Professions Code is amended to read:

2532.25.
(a) An applicant seeking licensure as an audiologist shall possess a doctorate in audiology earned from an educational institution approved by the board. The board may, in its discretion, accept qualifications it deems to be equivalent to a doctoral degree in audiology. The board shall not, however, accept as equivalent qualifications graduation from a master's program that the applicant was enrolled in on or after January 1, 2008.
(b) In addition to meeting the qualifications specified in subdivision (a), an applicant seeking licensure as an audiologist shall do all of the following:
(1) Submit evidence of the satisfactory completion of supervised clinical practice with individuals representative of a wide spectrum of ages and audiological disorders. The board shall establish by regulation the required number of clock hours of supervised clinical practice necessary for the applicant. The clinical practice shall be under the direction of an *audiology doctoral program at an* educational institution approved by the board.
(2) Submit evidence of no less than 12 months of satisfactorily completed supervised professional full-time experience or its part-time equivalent obtained under the supervision of a licensed audiologist or an audiologist having qualifications deemed equivalent by the board. This experience shall be completed under the direction of ~~a board-approved audiology doctoral program. The required professional experience shall follow completion of the didactic and clinical rotation requirements of the audiology doctoral program.~~ *an audiology doctoral program at an educational institution approved by the board.*
(3) Pass an examination or examinations approved by the board. The board shall determine the subject matter and scope of the examination or examinations and may waive an examination upon evidence

that the applicant has successfully completed an examination approved by the board. Written examinations may be supplemented by oral examinations as the board shall determine. An applicant who fails an examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.
(c) This section shall apply to applicants who graduate from an approved educational institution on and after January 1, 2008.

SEC. 11.
Section 2532.8 of the Business and Professions Code is amended to read:

2532.8.
(a) The board ~~shall~~ *shall, until January 1, 2027,* deem a person who holds a valid ~~certificate~~ *Certificate* of ~~clinical competence in speech-language pathology or audiology~~ *Clinical Competence in Speech-Language Pathology* issued by the American Speech-Language-Hearing Association's Council for Clinical Certification to have met the educational and experience requirements set forth for speech-language pathologists ~~or audiologists~~ in Section 2532.2.
(b) The board shall, until January 1, 2027, deem a person who holds either a valid Certificate of Clinical Competence in Audiology issued by the American Speech-Language-Hearing Association's Council for Clinical Certification or a valid American Board of Audiology certificate issued by the American Academy of Audiology to have met the educational and experience requirements set forth for audiologists in Section 2532.2 and 2532.25.
~~(b)~~ *(c)* If an applicant qualifying for licensure under this section has obtained any equivalent qualifications in violation of the laws and regulations governing the practices of speech-language pathology or audiology or has not met the requirements for licensure, ~~he or she~~ *the applicant* shall correct the deficiency to qualify for licensure. If the deficiency is not cured within one year from the date of the deficiency notice, the application for licensure is deemed abandoned.

SEC. 12.
The heading of Article 4 (commencing with Section 2533) of Chapter 5.3 of Division 2 of the Business and Professions Code is amended to read:

Article 4. Denial, Suspension, Revocation, and Probation

SEC. 13.
Section 2533 of the Business and Professions Code is amended to read:

2533.
The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:
(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof.
(b) Securing a license by fraud or deceit.
(c) (1) The use or administering to ~~himself or herself~~ *themselves* of any controlled substance.
(2) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely.
(3) More than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section.

(4) Any combination of paragraph (1), (2), or (3).
The record of the conviction shall be conclusive evidence of unprofessional conduct.
(d) Engaging in any act in violation of Section 650.
~~(d)~~ *(e)* Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.
~~(e)~~ *(f)* Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.
~~(f)~~ *(g)* Incompetence, gross negligence, or repeated negligent acts.
~~(g)~~ *(h)* Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.
~~(h)~~ *(i)* Use by a hearing aid dispenser of the term “doctor” or “physician” or “clinic” or “audiologist,” or any derivation thereof, except as authorized by law.
~~(i)~~ *(j)* The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.
~~(j)~~ *(k)* Any cause that would be grounds for denial of an application for a license.
~~(k)~~ *(l)* Violation of Section 1689.6 or 1793.02 of the Civil Code.
~~(l)~~ *(m)* Violation of a term or condition of a probationary order of a license issued by the board pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
~~(m)~~ *(n)* Violation of a term or condition of a conditional license issued by the board pursuant to this section.
(o) Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of speech-language pathology, audiology, or hearing aid dispensing.
(p) Aiding or abetting any person to engage in the unlicensed practice of speech-language pathology, audiology, or hearing aid dispensing.
(q) Violating or attempting to violate, directly or indirectly, any of the provisions of this chapter.

SEC. 14.
Section 2533.1 of the Business and Professions Code is amended to read:

2533.1.
A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a speech-language ~~pathologist or audiologist~~ *pathologist, audiologist, or hearing aid dispenser* is deemed to be a conviction within the meaning of this article. The board may order a licensee be disciplined or denied a license as provided in Section 2533 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under Section 1203.4, 1203.4a, or 1203.41 of the Penal Code allowing the person to withdraw ~~his or her~~ *their* plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, ~~information~~ *information,* or indictment.

SEC. 15.
Section 2533.4 of the Business and Professions Code is amended to read:

2533.4.
Whenever a person other than a licensed speech-language pathologist, *audiologist, or* hearing aid ~~dispenser, or audiologist~~ *dispenser* has engaged in an act or practice which constitutes an offense under this chapter, a superior court of any county, on application of the board, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this section shall be governed by

Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The board may commence action in the superior court under this section on its own motion.

SEC. 16.
Section 2533.6 is added to the Business and Professions Code, to read:

2533.6.
(a) A person whose license has been revoked or suspended, or who has been placed on probation, may petition the Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum period of time has elapsed from the effective date of the decision ordering that disciplinary action:
(1) At least three years for reinstatement of a license revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.
(2) At least two years for early termination or one year for modification of a condition of probation of three years or more.
(3) At least one year for reinstatement of a license revoked for mental or physical illness, or for modification of a condition, or termination of probation of less than three years.
(b) The petition shall be on a form provided by the board and shall state any facts and information as may be required by the board, including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order. The petition shall be verified by the petitioner who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.
(c) The petition may be heard by the board, with the matter presided over by an administrative law judge. After a hearing on the petition, the administrative law judge shall provide a decision as determined by the board which shall be acted upon in accordance with the Administrative Procedure Act.
(d) The board or the administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the board or the administrative law judge finds necessary.
(e) The administrative law judge when hearing a petition for reinstating a license, or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.
(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner. The board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.
(g) The board may deny, without a hearing or argument, any petition for termination or modification of probation filed pursuant to this section for any of the following:
(1) The petitioner has failed to comply with the terms and conditions of the disciplinary order.
(2) The board is conducting an investigation of the petitioner while they are on probation.
(3) The petitioner has a subsequent arrest that is substantially related to the qualifications, functions, or duties of the licensee or registrant and this arrest occurred while on probation.
(4) The petitioner's probation with the board is currently tolled.
(h) Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 17.
Section 2534.2 of the Business and Professions Code is amended to read:

2534.2.
The amount of the fees prescribed by this chapter is that established by the following schedule:
(a) (1) The application fee and renewal fee for speech-language pathologists and nondispensing audiologists shall be established by the board in an amount that does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter, excluding Article 9 (commencing with Section 2539.1).
(2) The application fee and renewal fee for dispensing audiologists shall be established by the board in an amount that does not exceed two hundred eighty dollars ($280) but is sufficient to support the functions of the board that relate to the functions authorized by this chapter.
(b) The delinquency fee shall be twenty-five dollars ($25).
(c) The reexamination fee shall be established by the board in an amount that does not exceed seventy-five dollars ($75).
(d) The ~~fee for registration~~ *registration fee and renewal fee* of an aide shall be established by the board in an amount that does not exceed thirty dollars ($30).
(e) A fee to be set by the board of not more than one hundred dollars ($100) shall be charged for each application for approval as a speech-language pathology assistant.
(f) A fee of one hundred fifty dollars ($150) shall be charged for the issuance of and for the renewal of each approval as a speech-language pathology assistant, unless a lower fee is established by the board.
(g) The duplicate wall certificate fee is twenty-five dollars ($25).
(h) The duplicate renewal receipt fee is twenty-five dollars ($25).
(i) The application fee and renewal fee for a temporary license is thirty dollars ($30).
(j) The fee for issuance of a license status and history certification letter shall be established by the board in an amount not to exceed twenty-five dollars ($25).

SEC. 18.
Section 2538.3 of the Business and Professions Code is amended to read:

2538.3.
~~(a)~~ A person applying for approval as a speech-language pathology assistant shall have graduated from a speech-language pathology assistant associate of arts degree program, or equivalent course of study, approved by the board. A person who has successfully graduated from a board-approved bachelor's degree program in speech-language pathology or communication disorders shall be deemed to have satisfied an equivalent course of study.
~~(b) On or before June 1, 2003, a person who has in the last five years performed the functions of a speech-language pathology aide on a full-time basis for a minimum of one year, or on a part-time basis equivalent to a minimum of one year of full-time work, may make application for registration as a speech-language pathology assistant based upon the board's recognition of that aide's job training and experience and the performance of functions and tasks similar to the speech-language pathology assistant category. For purposes of this subdivision, "full time" means a minimum of 30 hours per week.~~

SEC. 19.
Section 2539.1 of the Business and Professions Code is amended to read:

2539.1.
(a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections ~~2532~~ *2532, 2532.2,* and ~~2532.2,~~ *2532.25,* no licensed audiologist shall sell hearing aids unless ~~he or she completes~~ *they complete* an application for a dispensing

audiology license, pays all applicable fees, and passes an examination, approved by the board, relating to selling hearing aids.
(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).
(b) (1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to ~~his or her~~ *their* audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's license to sell hearing aids, the board shall issue ~~him or her~~ *them* a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser's license from maintaining dual or separate licenses if ~~he or she chooses~~ *they choose* to do so.
(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and ~~he or she~~ *they* shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.
(c) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.
(d) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

SEC. 20.

Section 2.5 of this bill incorporates amendments to Section 2530.2 of the Business and Professions Code proposed by both this bill and Senate Bill 1453. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 2530.2 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 1453, in which case Section 2 of this bill shall not become operative.

SEC. 21.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 22.

The Legislature finds and declares that Section 5 of this act, which adds Section 2530.7 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:
The act balances the public's right of access to records of the Speech-Language Pathology and Audiology and Hearing Aid Dispensers' Board with the need to protect the privacy of applicants, registrants, and licensees.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
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MEMORANDUM

DATE	October 10, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Agenda Item 14: Legislative Report: Update, Review, and Possible Action on Proposed Legislation

a. Legislative Calendar and Deadlines

- September 30, 2022 – Last day for Governor to sign or veto bills
- November 30, 2022 – Final day of the 2021-22 legislative session
- December 5, 2022 – Convening of the 2023-24 legislative session
- January 1, 2023 – New statutes take effect

b. Bills with Active Positions Taken by the Board

- **AB 29 (Cooper) State bodies: meetings**

  Status:
  This bill is dead. The bill was held under submission in the Assembly Appropriations Committee.

  Board Position: Oppose

  Summary:
  This bill would have required the Board to make all writings and materials for publicly noticed meetings available on the Board's website and provided to any person requesting such materials in writing at least 72 hours prior to the meeting or on the same day the writings and materials are provided to Board members, whichever is earlier. This bill would have also prohibited the Board from discussing or acting on any items not provided in advance of the meeting as required.

- **AB 225 (Gray) Department of Consumer Affairs: boards: veterans: military spouses: licenses**

  Status:
  This bill is dead. The bill was not heard in the Senate Business, Professions, and Economic Development Committee.

  Board Position: Oppose Unless Amended

  Summary:
  This bill would have expanded current law requiring a temporary license for applicants currently licensed in another state who are married to or in a domestic partnership with an active duty member of the military currently stationed in California to also apply to applicants who are veterans within 60 months of separation (or 120 months if they are a resident of California) and active duty members with official separation orders within 90 days. Additionally, this bill would have removed current provisions that allow a temporary license to expire upon the denial of an application for a permanent license.

- **AB 555 (Lackey) Special education: assistive technology devices**

  Status:
  This bill is dead. The bill was not heard in the Assembly Education Committee.

  Board Position: Oppose Unless Amended

  Summary:
  This bill would have authorized a local education agency or special education local plan area to retain, sell, or dispose of an assistive technology device, including hearing aids, if the market value of the device is less than $5,000 and it is not needed for another individual with exceptional needs.

- **AB 885 (Quirk) State bodies: open meetings**

  Status:
  This bill is dead. The bill was not heard in the Assembly Governmental Organization Committee.

  Board Position: Support

  Summary:
  This bill would have required public meetings held by teleconference to include both an audible and visual means of participation. Public meetings held by teleconference would only be required to include one location where the public may physically attend and participate.

- **AB 1026 (Smith) Business licenses: veterans**

  Status:
  This bill is dead. The bill was held under submission in the Assembly Appropriations Committee.

  Board Position: Support

  Summary:
  This bill would have required boards to grant a 50-percent fee reduction for an initial license for military veterans who provide satisfactory evidence with their application. The bill would have defined satisfactory evidence as a driver's license or identification card with "Veteran" printed on its face.

- **AB 1361 (Rubio) Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates**

  Status:
  This bill is dead. The bill was held under submission in the Assembly Appropriations Committee.

  Board Position: Oppose Unless Amended

  Summary:
  This bill would have required specific actions to be taken, including engaging an early childhood mental health consultant, prior to unenrolling or expelling a child from a family childcare home education program or preschool due to a behavior issue. This bill included a provision that would have authorized a person with at least a master's degree in speech and language pathology to receive reimbursement for early childhood mental health consultation services.

- **AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal conviction**

  Status:
  This bill is dead. The bill was held under submission in the Senate Appropriations Committee.

  Board Position: Oppose

  Summary:
  This bill would have required boards to establish a process for prospective applicants to request a preapplication determination whether they may be disqualified from licensure based on their criminal history. The Board would have been required to notify the prospective applicant in writing if their criminal history could be a cause for denial and include information regarding the criteria for substantially related crimes, the process to request a copy of the complete

conviction history, notification of the right to appeal the Board's decision, and the rehabilitation criteria established by the Board. This bill would have authorized the Board to charge a fee up to $50 for the preapplication determination.

- **AB 1733 (Quirk) State bodies: open meetings**

  Status:
  This bill is dead. The bill was not heard in the Assembly Governmental Organization Committee.

  Board Position: Support

  Summary:
  This bill would have required open meetings to provide members of the public with a physical location to hear, observe, and address the state body and means to remotely hear or hear and observe the meeting and remotely address the state body without requiring public comments to be submitted prior to the meeting. This bill would have allowed Board members to remotely participate in an open meeting without disclosing the remote location.

- **AB 2686 (Berman) Speech-language pathologists, audiologists, and hearing aid dispensers**

  Status:
  This bill was signed by the Governor.

  Board Position: Support

  Summary:
  This bill extends the Board's sunset date until January 1, 2027 and addresses a number of issues raised by the Board during the sunset review process including requiring licensees to provide the Board with their email address, expanding the reasons for which the Board is authorized to take disciplinary action, and requiring aide registrations to be renewed every two years. This bill also changes the licensing requirements for audiologists by clarifying that the required clinical practice must be under the direction of an audiology doctoral program and removing the requirement that the required professional experience must follow the completion of the didactic and clinical rotation requirements. This bill also revises the process for licensees seeking to petition the Board for reinstatement or modification of penalty, including specifying a minimum period of time before the licensee can petition the Board again. Additionally, this bill removes the statutory requirement and membership for the Hearing Aid Dispensing Committee.

- **AB 2806 (Rubio) Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates**

  Status:
  This bill was signed by the Governor.

  Board Position: Neutral

  Summary:
  This bill requires specific actions to be taken, including engaging an early childhood mental health consultant, prior to unenrolling or expelling a child from a family childcare home education program or preschool due to a behavior issue. *This bill previously included a provision that would have authorized a person with at least a master's degree in speech and language pathology to receive reimbursement for early childhood mental health consultation services which was removed from the bill, and the Board subsequently removed their opposition.*

- **SB 772 (Ochoa Bogh) Professions and vocations: citations: minor violations**

  Status:
  This bill is dead. The bill was not heard in the Senate Business, Professions, and Economic Development Committee.

  Board Position: Oppose

  Summary:
  This bill would have prohibited the assessment of an administrative fine for minor violations if the licensee corrects the violation within 30 days. Minor violations would have been defined as those that do not pose a serious health or safety threat, are not willful, do not occur while on probation, and are not violations that the licensee has a history of committing.

- **SB 1031 (Ochoa Bogh) Healing arts boards: inactive license fees**

  Status:
  This bill is dead. The bill was held under submission in the Senate Appropriations Committee.

  Board Position: Oppose

  Summary:
  This bill would have required the renewal fee for an inactive license to be half of the amount of the fee for the renewal of an active license.

- **SB 1453 (Ochoa Bogh) Speech language pathologists**

  Status:
  This bill was signed by the Governor.

  Board Position: Support

  Summary:
  This bill allows a speech-language pathologist to perform the FEES procedure in primary care and specialty clinics, county medical facilities, hospitals and skilled nursing facilities, hospice facilities, and medical group practices, without the presence of a physician, as long as the facility has emergency medical backup procedures, including a physician or other appropriate medical professional being readily available.

  This bill also removes the requirement that an ENT authorize the FEES procedure and instead allows a speech-language pathologist to perform the FEES procedure upon the orders of a licensed physician. This bill prohibits the FEES procedure from being performed on patients who have contraindications that would prevent the procedure from being performed safely.

  Additionally, this bill clarifies that a speech-language pathologist must perform 25 supervised FEES procedures, including 10 supervised by a physician who performs nasal endoscopy and 15 supervised by an experienced physician or speech-language pathologist competent in the FEES procedure. The speech-language pathologist must obtain written verification from one ENT that they performed the minimum of 25 procedures and are competent to perform the FEES procedure.

c. Bills with Recommended Watch Status

- **AB 646 (Low) Department of Consumer Affairs: boards: expunged convictions**

  Status:
  This bill is dead. The bill was held under submission in the Senate Appropriations Committee.

  Summary:
  This bill would have required boards that post information about a revoked license due to a criminal conviction on the online license search system to post the expungement order if the person reapplies for licensure or has been relicensed or remove the information if the person does not reapply for licensure. The Board would have been authorized to charge a fee of $25 to cover the reasonable cost of administering this provision.

- **AB 1236 (Ting) Healing arts: licensees: data collection**

  Status:
  This bill is dead. The bill died on the Assembly inactive file.

  Summary:
  This bill would have required healing arts boards to request specified workforce data from its licensees at the time of electronic application for a license and license renewal or at least biennially from a scientifically selected random sample of licensees. The Board would have been required to report the data collected on a biennial basis and post it on the Board's website. The Board would have also been required to provide the data annually to the Office of Statewide Health Planning and Development.

- **AB 1308 (Ting) Arrest and conviction record relief**

  Status:
  This bill is dead. The bill was not heard in the Senate Public Safety Committee.

  Summary:
  This bill would have expanded current law regarding arrest and conviction record relief to allow an arrest or conviction that occurred on or after January 1, 1973 to be considered for relief.

- **AB 1498 (Low) Members of boards within the Department of Consumer Affairs: per diem**

  Status:
  This bill is dead. The bill was not heard in the Assembly Appropriations Committee.

  Summary:
  This bill would have required boards to define "day that the member discharged official duties" as either the accumulation of eight hours spent in the discharge of official duties or the day on which the Board member performed an official duty for the purposes of the per diem of $100 for each day.

- **AB 1795 (Fong) Open meetings: remote participation**

  Status:
  This bill is dead. The bill was not heard in the Assembly Governmental Organization Committee.

  Summary:
  This bill would have required open meetings to include both in-person and remote participation. This bill would have defined remote participation as participation at a

location other than the physical location designated in the agenda of the meeting via electronic communication.

- **AB 2600 (Dahle) State agencies: letters and notices: requirements**

  Status:
  This bill is dead. The bill was not heard in the Assembly Accountability and Administrative Review Committee.

  Summary:
  This bill would have required state agencies, when sending any communication to a recipient, to include in bold font at the beginning of the communication whether it requires action or serves as notice requiring no action.

- **AB 2790 (Wicks) Reporting of crimes: mandated reporters**

  Status:
  This bill is dead. The bill was held under submission in the Senate Appropriations Committee.

  Summary:
  This bill would have required health practitioners who know or reasonably suspect their patient is experiencing any form of domestic or sexual violence to provide brief counseling, education, or other support and offer a referral to local and national domestic violence or sexual violence advocacy services.

- **SB 731 (Durazo) Criminal records: relief**

  Status:
  This bill was signed by the Governor.

  Summary:
  This bill expands current law regarding arrest record relief to include a person who was arrested on or after January 1, 1973 if criminal proceedings are not initiated within specified timeframes. This bill also expands felony convictions that are eligible for automatic record sealing to include convictions for certain felonies that resulted in incarceration if at least four years have elapsed since the completion of all terms of incarceration and parole without being convicted of a new felony offense.

- **SB 1237 (Newman) Licenses: military service**

  Status:
  This bill was signed by the Governor.

Summary:
This bill expands the requirement that boards waive renewal fees and continuing education requirements to include individuals on duty in the California National Guard or on active duty in the United States Armed Forces. Currently, the waiver for renewal fees and continuing education requirements only apply to individuals "called to active duty" on temporary military orders.

- **SB 1365 (Jones) Licensing boards: procedures**

  Status:
  This bill is dead. The bill was held under submission in the Senate Appropriations Committee.

  Summary:
  This bill would have required boards to post the criteria used to evaluate applicants with criminal convictions on their website to help inform potential applicants about their possibility of obtaining licensure prior to investing time and resources into education and training. This bill would have also required the Department of Consumer Affairs to develop processes and procedures for boards to use to verify applicant information, perform background checks, and provide an informal appeal process.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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MEMORANDUM

DATE	October 7, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Agenda Item 15: Discussion and Possible Action to Adopt Omnibus Legislative Proposal Regarding Gendered Pronouns in Business and Professions Code sections 2530.3, 2532, 2532.5, 2535.4, 2537.3, 2538.20, 2538.21, 2538.27, 2538.28, 2538.30, 2538.32, 2538.33, 2538.34, 2538.36, 2538.40, 2538.49, 2538.50, 2538.51, 2538.56, 2539.1, and 2539.6

Background

Assembly Concurrent Resolution 260 (Chapter 190, Statutes of 2018) states that existing statutes should be revised with inclusive language by using gender-neutral pronouns or reusing nouns. This resolution also encourages state agencies to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance. As such, Board Staff is proposing an omnibus legislative proposal to remove reference to gendered pronouns by changing “he or she” to “they” and “his or her” to “their.”

Summary of Changes

Business and Professions Code sections 2530.3, 2532, 2532.5, 2535.4, 2537.3, 2538.20, 2538.21, 2538.27, 2538.28, 2538.30, 2538.32, 2538.33, 2538.34, 2538.36, 2538.40, 2538.49, 2538.50, 2538.51, 2538.56, 2539.1, and 2539.6 would be amended to remove reference to gendered pronouns.

Action Requested

Staff recommends the Board review the draft legislative proposal. The goal of this legislative proposal is to make any non-substantive changes to the Board’s practice act. The Board may wish to discuss any additional non-substantive changes needed to the Board’s practice act.

Suggested Motion Language
Move to adopt the draft legislative proposal replacing gendered pronouns with inclusive language in the Board’s Practice Act, direct staff to submit the proposal through the legislative Omnibus process, or find an author for this legislative proposal if not accepted in the Omnibus process, and authorize the Executive Officer to negotiate any amendments consistent with this policy.

Attachment: 2023 Legislation Omnibus Proposal

Legislation Omnibus Proposal

Business and Professions Code section 2530.3

(a) A person represents ~~himself or herself~~ themself to be a speech-language pathologist when ~~he or she~~ they hold~~s himself or herself~~ themself out to the public by any title or description of services incorporating the words “speech pathologist,” “speech pathology,” “speech therapy,” “speech correction,” “speech correctionist,” “speech therapist,” “speech clinic,” “speech clinician,” “language pathologist,” “language pathology,” “logopedics,” “logopedist,” “communicology,” “communicologist,” “aphasiologist,” “voice therapy,” “voice therapist,” “voice pathology,” or “voice pathologist,” “language therapist,” or “phoniatrist,” or any similar titles; or when ~~he or she~~ they purport~~s~~ to treat stuttering, stammering, or other disorders of speech.
(b) A person represents ~~himself or herself~~ themself to be an audiologist when ~~he or she~~ they hold~~s himself or herself~~ themself out to the public by any title or description of services incorporating the terms “audiology,” “audiologist,” “audiological,” “hearing clinic,” “hearing clinician,” “hearing therapist,” or any similar titles.

Business and Professions Code section 2532

No person shall engage in the practice of speech-language pathology or audiology or represent ~~himself or herself~~ themself as a speech-language pathologist or audiologist unless ~~he or she is~~ they are licensed in accordance with this chapter.

Business and Professions Code section 2532.5

Every person holding a license under this chapter shall display it conspicuously in ~~his or her~~ their primary place of practice.

Business and Professions Code section 2535.4

A person who fails to renew ~~his or her~~ their license within the five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if ~~he or she~~ they meet~~s~~ all of the following requirements:

(a) ~~Has~~ Have not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Take~~s~~ and pass~~es~~ the examination or examinations, if any, which would be required of ~~him or her~~ them if an initial application for licensure was being made, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, ~~he or she is~~ they are qualified to practice as a speech-language pathologist or audiologist, as the case may be.

(c) Pay~~s~~ all of the fees that would be required if an initial application for licensure was being made. In addition, the board may charge the applicant a fee to cover the actual costs of any examination that it may administer.

Business and Professions Code section 2537.3

The income of a speech-language pathology corporation or an audiology corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of that shareholder or ~~his or her~~ their share~~s~~ in the speech-language pathology or audiology corporation.

Business and Professions Code section 2538.20

It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold ~~himself or herself~~ themself out as being so engaged without having first obtained a license from the board under the provisions of this article. Nothing in this article shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this article. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.

Business and Professions Code section 2538.21

This article does not apply to a person engaged in the practice of fitting hearing aids if ~~his~~ their practice is for a governmental agency, or private clinic, or is part of the academic curriculum of an accredited institution of higher education, or part of a program conducted by a public, charitable institution or other nonprofit organization, and who does not engage directly or indirectly in the sale or offering for sale of hearing aids.

Business and Professions Code section 2538.27

(a) An applicant who has fulfilled the requirements of Section 2538.24 and has made application therefor, may have a temporary license issued to ~~him or her~~ them upon satisfactory proof to the board that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years immediately prior to application.

(b) A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A temporary license shall automatically terminate upon issuance of a license prior to expiration of the one-year period.

(c) The holder of a temporary license issued pursuant to this section who fails either license examination shall be subject to and shall comply with the supervision requirements of Section 2538.28 and any regulations adopted pursuant thereto.

Business and Professions Code section 2538.28

(a) An applicant who has fulfilled the requirements of Section 2538.24, and has made application therefor, and who proves to the satisfaction of the board that ~~he or she~~ they will be supervised and trained by a hearing aid dispenser who is approved by the board may have a trainee license issued to them. ~~him or her~~. The trainee license shall entitle the trainee licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed by a trainee licensee under ~~his or her~~ their supervision that may constitute a violation of this chapter.

(b) The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a trainee licensee, including procedures to appeal that decision.

(c) A trainee license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the trainee license for an additional period of six months. Except as provided in subdivision (d), the board shall not issue more than two renewals of a trainee license to any applicant. Notwithstanding subdivision (d), if a trainee licensee who is entitled to renew a trainee license does not renew the trainee license and applies for a new trainee license at a later time, the new trainee license shall only be issued and renewed subject to the limitations set forth in this subdivision.

(d) A new trainee license may be issued pursuant to this section if a trainee license issued pursuant to subdivision (c) has lapsed for a minimum of three years from the expiration or cancellation date of the previous trainee license. The board may issue only one new trainee license under this subdivision.

Business and Professions Code section 2538.30

(a) A temporary or trainee licensee shall not be the sole proprietor of, manage, or independently operate a business which engages in the fitting or sale of hearing aids.

(b) A temporary or trainee licensee shall not advertise or otherwise represent that ~~he or she~~ they hold~~s~~ a license as a hearing aid dispenser.

Business and Professions Code section 2538.32

Every applicant who obtains a passing score determined by the Angoff criterion-referenced method of establishing the point in each examination shall be deemed to have passed that examination. An applicant shall pass the written examination before ~~he or she~~ they may take the practical examination. An applicant shall obtain a passing score on both the written and the practical examination in order to be issued a license.

Business and Professions Code section 2538.33

(a) Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the board in writing of the address or addresses where ~~he or she is~~ they are to engage, or intend~~s~~ to engage, in the practice of fitting or selling hearing aids, and of any changes in ~~his or her~~ their place of business within 30 days of engaging in that practice.

(b) If a street address is not the address at which the licensee receives mail, the licensee shall also notify the board in writing of the mailing address for each location where the licensee is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any change in the mailing address of ~~his or her~~ their place or places of business.

Business and Professions Code section 2538.34

(a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the licensee's place of business shall be registered with the board as provided in Section 2538.33.

(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state, ~~he or she~~ they shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser may, without obtaining a duplicate license for a branch office, engage on a temporary basis in the practice of fitting or selling hearing aids at the primary or branch location of another licensee's business or at a location or facility that ~~he or she~~ they may use on a temporary basis, provided that the hearing aid dispenser notifies the board in advance in writing of the dates and addresses of those businesses, locations, or facilities at which ~~he or she~~ they will engage in the practice of fitting or selling hearing aids.

Business and Professions Code section 2538.36

(a) Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that ~~his or her best interests would be served if he or she would~~ it would be in their best interest to consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

(4) Acute or chronic dizziness.

(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.

(6) Significant air-bone gap (when generally acceptable standards have been established).

(7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.

(8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 2538.38. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

Business and Professions Code section 2538.40

Upon denial of an application for license, the board shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 2533.2 if ~~he or she~~ they make~~s~~ a written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the board in ~~his or her~~ their application or otherwise.

Business and Professions Code section 2538.49

It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless ~~he or she~~ the licensee first does all of the following:

(a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.

(b) Conducts a direct observation of the purchaser's ear canals.

(c) Informs the purchaser of 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.

Business and Professions Code section 2538.50

It is unlawful to advertise by displaying a sign or otherwise or hold ~~himself or herself~~ yourself out to be a person engaged in the practice of fitting or selling hearing aids without having at the time of so doing a valid, unrevoked license or temporary license.

Business and Professions Code section 2538.51

It is unlawful to engage in the practice of fitting or selling hearing aids without the licensee having and maintaining an established business address, routinely open for service to ~~his or her~~ their clients.

Business and Professions Code section 2538.56

A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:
(a) ~~He or she has~~ They have not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) ~~He or she~~ They pay~~s~~ all the fees that would be required ~~of him or her if he or she~~ as if they were ~~then~~ applying for a license for the first time.

(c) ~~He or she~~ They take~~s~~ and pass~~es~~ the examination that would be required ~~of him or her if he or she~~ as if they were ~~then~~ applying for a license for the first time, or otherwise establish~~es~~ to the satisfaction of the board that ~~he or she is~~ they are qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

Business and Professions Code section 2539.1

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

(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).

(b) (1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to ~~his or her~~ their audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's license to sell hearing aids, the board shall issue

~~him or her~~ a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser's license from maintaining dual or separate licenses if ~~he or she~~ they choose~~s~~ to do so.

(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and ~~he or she~~ they shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

(c) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.

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

Business and Professions Code section 2539.6

(a) Whenever any of the following conditions are found to exist either from observations by the licensed audiologist or on the basis of information furnished by the prospective hearing aid user, a licensed audiologist shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that ~~his or her~~ their best interests would be served if ~~he or she would~~ they consult a licensed physician specializing in diseases of the ear or if no licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.

(2) History of, or active, drainage from the ear within the previous 90 days.

(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

(4) Acute or chronic dizziness.

(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.

(6) Significant air-bone gap (when generally acceptable standards have been established).

(7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.

(8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any licensed audiologist in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensed audiologist for the period provided for in Section 2539.10. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensed audiologist for the period provided for in Section 2539.10. Nothing in this section required to be performed by a licensed audiologist shall mean that the licensed audiologist is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

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MEMORANDUM

DATE	October 19, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 17: Regulatory Report: Update, Review, and Possible Action on Board Regulation Packages

The following is a list of the Board's regulatory packages, and their status in the rulemaking process:

a) Discussion and Possible Action to Amend Regulations Regarding Speech-Language Pathology Assistant (SLPA) Supervision Requirements as stated in Title 16, California Code of Regulations (CCR) sections 1399.170, 1399.170.2, and 1399.170.15 through 1399.170.18

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved revisions to the regulatory language on May 13, 2022. Board staff submitted the required regulatory documents for DCA pre-review on August 18, 2022.

This proposed change will permit tele supervision of speech-language pathology assistant (SLPA), require a higher level of supervision for SLPAs during the first 90 days of initial licensure, require supervisors to have full-time experience before supervising a SLPA, permit the supervision of three support personnel not to exceed six at any time, and incorporate by reference a revised supervision form.

b) Discussion and Possible Action to Amend and Adopt Regulations Regarding Uniform Standards Related to Substance-Abusing Licensees as stated in Title 16, CCR sections 1399.102, 1399.131, 1399.131.1, 1399.155, and 1399.155.1

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved regulatory language on August 13, 2021. The required regulatory documents completed the initial departmental review process on

September 15, 2022, and was noticed on September 30, 2022 for public comment. The 45-day public comment period will end on November 15, 2022.

This proposed change will require the Board to use the uniform standards when disciplining substance-abusing licensees and incorporate by reference DCA's uniform standards document.

c) Discussion and Possible Action to Amend Regulations Regarding Required Professional Experience Direct Supervision Requirements and Tele-Supervision as stated in Title 16, CCR sections 1399.153 and 1399.153.3

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

This regulatory proposal is in the Finalizing Regulatory Package phase. This regulatory proposal requires review and approval by the Board. See the separate memo for this regulatory proposal.

d) Discussion and Possible Action to Amend and Adopt Regulations Regarding Examination Requirements for Hearing Aid Dispensers and Dispensing Audiologists as stated in Title 16, CCR sections 1399.120, 1399.121, 1399.122, and 1399.152.4

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved the regulatory language on May 13, 2022. Board staff are working on preparing the required regulatory documents for DCA pre-review.

This proposed change will update the practical examination process, described the written examination process, update the practical examination appeal process, and specify the required hearing aid examination for dispensing audiologists to only the written examination.

e) Discussion and Possible Action to Amend Regulations Regarding Continuing Professional Development Requirements for Speech-Language Pathologists and Audiologists as stated in Title 16, CCR sections 1399.160 through 1399.160.4

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved the regulatory language on August 12, 2022. Board staff are working on preparing the required regulatory documents for DCA pre-review.

This proposed change will clarify the definition to self-study, increase the number of self-study, and align hearing aid course content with proposed changes to Hearing Aid Dispensers regulations.

f) Discussion and Possible Action to Adopt Regulations Regarding Notice to Consumers as stated in Title 16, CCR sections 1399.129 and 1399.157.1

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

This regulatory proposal is in the Finalizing Regulatory Package phase. This regulatory proposal requires review and approval by the Board. See the hand carry memo for this regulatory proposal.

g) Discussion and Possible Action to Amend and Adopt Regulations Regarding Fingerprinting Requirements as stated in Title 16, CCR sections 1399.112, 1399.151.2, and 1399.170.14

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved the regulatory language on May 13, 2022. Board staff submitted the required regulatory documents for DCA pre-review on August 31, 2022. Board staff are working with the DCA Budgets Office to develop the Economic and Fiscal Impact Statement.

This proposed change will require licensees who were initially licensed prior to January 1, 1999, or for whom an electronic fingerprints record does not exist, to be fingerprinted as a condition of renewal.

h) Discussion and Possible Action to Amend Regulations Regarding Continuing Education Requirements for Hearing Aid Dispensers and Dispensing Audiologists as stated in Title 16, California Code of Regulations (CCR) sections 1399.140, 1399.140.1 and 1399.144

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved the regulatory language on August 12, 2022. Board staff are working on preparing the required regulatory documents for DCA pre-review.

This proposed change will establish requirements for course content related to hearing aid equipment, devices, of related products; increase the number of related or in direct course content; establish requirement for examination development and administration to count as Continuing Education (CE) hours; and align with regulation this Board has for other license type and Board process.

i) Discussion and Possible Action to Amend Regulations Regarding SLPA Application and Board Processing Times as stated in Title 16, CCR sections 1399.113, 1399.151.1, 1399.160.6, and 1399.170.13

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved the regulatory language on August 12, 2022. Board staff are working on preparing the required regulatory documents for DCA pre-review.

This proposed change will repeal processing times and update the SLPA application.

j) Discussion and Possible Action to Amend Regulations Regarding SLPA Program and Academic Requirements as stated in Title 16, CCR sections 1399.170.4, 1399.170.10, and 1399.170.11

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

The Board approved the regulatory language on August 12, 2022. Board staff submitted the required regulatory documents for initial departmental review on October 18, 2022.

This proposed change will specify qualifications for SLPA training program directors, increase the number of the required field work experience, and modify the full-time work experience for out-of-state SLPA applicants.

Attachment: Stages of the Regulatory Process

Stages of the Regulatory Process

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

Regulation Development: The first stage of the regulatory process is to develop the regulatory proposal. Regulations may be required to implement a new law or regulatory changes may be necessary to address an issue raised by Board members, Board staff, the Legislature, licensees, or other stakeholders. In this phase, the Board and/or Board Committees may work on drafting regulatory language, Board staff will work with DCA Legal staff to address any concerns with the draft regulatory text, and the Board will ultimately adopt the regulatory language.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

Preparing Regulatory Package: In this stage Board staff are working on preparing the required regulatory documents including Notice of Proposed Regulatory Action, Initial Statement of Reasons, and the Economic and Fiscal Impact Statement. Board staff review Board meeting materials, webcasts, and meeting minutes to assist in the development of these documents which must justify why the regulatory changes are necessary. Board staff may also work closely with the DCA Budgets Office to develop the Economic and Fiscal Impact Statement.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

DCA Regulations Pre-Review: In this stage Board staff work collaboratively with DCA Regulations Counsel. DCA Regulations Counsel propose recommended changes to the regulatory documents. DCA Regulations Counsel may also identify potential issues of concern with the regulatory language. Board staff then incorporate recommended changes prior to submitting the regulatory package back to the Board's Regulations Counsel. Board staff may also meet with Regulations Counsel and/or Budget Staff to provide additional information about the Board's licensing or enforcement processes in relation to the proposed regulation.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

Initial Departmental Review: Upon approval by the Board's Regulations Counsel, Board staff prepare additional supporting regulatory documents. The entire regulatory package will then be submitted for the Initial Departmental Review which involves reviews by DCA Legal, DCA Budgets, DCA Executive Office, and the Business, Consumer Services and Housing Agency. Throughout this stage, additional changes to the regulatory language and/or regulatory documents may be requested by DCA or the Business, Consumer Services and Housing Agency.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

OAL Public Comment Period: Upon approval by the Business, Consumer Services and Housing Agency, the regulatory proposal will be submitted to the Office of Administrative Law (OAL) to be published in the California Regulatory Notice Register. OAL publishes the Notice Register every Friday and the publication date starts the formal 45-day public comment period as well as the one-year deadline to submit the completed rulemaking file to OAL. If the Board makes changes to the regulatory language in response to public comments, the regulatory proposal must be published in the Notice Register for an additional 15-day public comment period.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

Finalizing Regulatory Package: The Board must respond in writing to every comment received during the public comment period. In this stage, Board staff work with DCA Regulations Counsel to develop proposed responses to the public comments, which must be approved by the Board. Board staff then prepare the Final Statement of Reasons which must outline any changes made to the regulatory language and updates to any information contained in the Initial Statement of Reasons such as changes to the fiscal and/or economic impact or additional materials to include in the record. The Final Statement of Reasons will also include the Board's approved responses to the public comments.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

DCA Regulations Final Review: Upon completion of the Final Statement of Reasons, Board staff submits the entire regulatory proposal to DCA Regulations Counsel for final review. In this stage Board staff work collaboratively with DCA Regulations Counsel. DCA Regulations Counsel may propose recommended changes to the Final Statement of Reasons or request additional underlying documents. Board staff will work with Regulations Counsel to address any concerns prior to the final submission to DCA.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

Final Departmental Review: Upon approval by the Board's Regulations Counsel, Board staff submits the entire regulatory package for the Final Departmental Review which involves reviews by DCA Legal, DCA Budgets, DCA Executive Office, and the Business, Consumer Services and Housing Agency. Throughout this stage, additional documents may be requested or changes to the regulatory documents may be requested by DCA or the Business, Consumer Services and Housing Agency.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

Submission to OAL for Review: Upon approval by the Business, Consumer Services and Housing Agency, the completed rulemaking file is submitted to OAL. OAL has 30 working days to approve or deny the regulatory proposal. During this stage Board staff will work with the OAL Attorney to address any concerns with the regulatory documents or make non-substantive changes to the regulatory language. Board and DCA staff may also work with the Department of Finance to obtain approval of the Economic and Fiscal Impact Statement.

Regulation Development	Preparing Regulatory Package	DCA Regulations Pre-Review	Initial Departmental Review	OAL Public Comment Period	Finalizing Regulatory Package	DCA Regulations Final Review	Final Departmental Review	Submission to OAL for Review	OAL Decision

OAL Decision: Unless the Board requested an early effective date, upon approval by OAL regulations become effective on one of four quarterly dates based on when the final regulations are filed with the Secretary of State: January 1, if filed between September 1 and November 30; April 1, if filed between December 1 and February 29; July 1, if filed between March 1 and May 31; and October 1, if filed between June 1 and August 31. Following approval by OAL, Board staff will work internally to implement the new regulations.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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MEMORANDUM

DATE	October 7, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Agenda Item 17c: Discussion and Possible Action to Amend or Adopt Regulations Regarding RPE Direct Supervision Requirements and Tele-Supervision as stated in Title 16, CCR sections 1399.153 and 1399.153.3

Background

This proposed regulation will allow tele-supervision of RPE temporary license holders for up to half of the required supervision hours and establish requirements for the use of tele-supervision.

The Board approved the current regulatory language on October 8, 2021 and received forty-four comments during the initial public comment period from August 5th through September 20, 2022. A copy of the public comments is included in your Board materials.

Board Staff is proposing changes to the regulatory text based on feedback from Board members and public comments received during the initial public comment period. These proposed changes will require an additional 15-day public comment period.

Summary of Changes

The proposed changes to the regulatory text are highlighted and include the following:

- Section 1399.153.3(c)(1)(B) is amended to allow either the RPE supervisor or RPE temporary license holder to document verbal or written consent in the patient's record. Section 1399(c)(1)(B)(i)&(ii) were both amended to remove the reference to the RPE Supervisor while retaining the intended requirement. With the use of tele-health, the RPE temporary licensee may be in the same physical location as the patient and/or the patient's record and it would be more efficient for the RPE temporary licensee to document the consent for the use of tele-supervision rather than only allowing the RPE supervisor to meet this requirement.
- Section 1399.153.3(c)(1)(E) is amended to remove this provision that had required the RPE temporary license holder to be physically present with the patient while being tele-supervised by the RPE supervisor. This provision would have prevented a RPE

temporary licensee from providing services via tele-health. Throughout the COVID-19 pandemic RPE temporary licensees have successfully provided services via tele-health and this provision would unintentionally prohibit tele-health services to patients while the RPE temporary licensee is being tele-supervised.

Action Requested

Staff recommends the Board review and discuss the provided materials, including the public comments. The Board may wish to determine whether or not to approve the modified regulatory text as currently drafted, or propose additional changes to the regulatory language based on the public comments, and direct Board Staff to proceed with a 15-day public comment period.

Suggested Motion Language
Move to approve the proposed modified regulatory text for Sections 1399.153 and 1399.153.3, and direct staff to take all steps necessary to notice the modified regulatory text and make any non-substantive changes to the regulatory package. If no adverse comments are received during the 15-day comment period, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed.

Attachment A: RPE Direct Supervision Public Comments
Attachment B: RPE Direct Supervision Requirements Modified Text

RPE Direct Supervision and Tele-Supervision Public Comments

Received August 5, 2022 – September 20, 2022

To request a copy of the public comments, please send an email to speechandhearing@dca.ca.gov.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

PROPOSED MODIFIED TEXT
Required Professional Experience
Direct Supervision Requirements and Tele-Supervision

Legend:	Added text is indicated with an underline. Deleted text is indicated by ~~strikeout~~. Modification by addition is indicated by double underline Modification by deletion is indicated by ~~double strikethrough~~

Amend section 1399.153 of Division 13.4 of Title 16 of the California Code of Regulations to read 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~~c), and 2532.25, subdivision (b)(2) 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, one-on-one audiovisual observation, and guidance, as needed by the RPE supervisor of activities related to the practice of speech-language pathology or audiology.

(e) "Tele-supervision" means synchronous, one-on-one audiovisual observation, and guidance, as needed through electronic audio and video monitoring by the RPE supervisor of activities related to the practice of speech-language pathology or

audiology while care is being provided to the patient.

Note: Authority cited: Section 2531.95, Business and Professions Code. Reference cited: Sections 2530.5, 2532.2, and 2532.25, Business and Professions Code.

Amend section 1399.153.3 of Division 13.4 of Title 16 of the California Code of Regulations to read 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~~ Ensuring 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~~ Ensuring 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 utilized in lieu 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 informs the patient about the use of tele-supervision and obtains verbal or written consent from the patient for the use of the tele-supervision. The consent shall be documented by either the RPE supervisor or the RPE temporary license holder in the patient's record prior to the first use of tele-supervision with the patient.

(i) If ~~the RPE supervisor obtained~~ verbal consent was received from the patient, the patient record shall reflect the consent was verbal and the date on which it was obtained.

(ii) If ~~the RPE supervisor obtained~~ written consent was received from the patient, the patient record shall include a copy of the written consent, which shall include the date on which it was obtained.

(C) The RPE supervisor evaluates the functions the RPE temporary license holder will perform 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 there is no need to be physically present with the RPE temporary license holder.

(D) Based on the functions the RPE supervisor will demonstrate to the RPE temporary license holder, the RPE supervisor determines in their professional judgment there is no need to be physically present with the RPE temporary license holder.

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

(~~F~~E) The RPE supervisor determines, based on their professional judgement, that other issues or conditions do not exist that make the use of tele-supervision inappropriate in that given situation.

(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 fifty (50) percent of the supervisor's ~~observation~~ supervision, whether provided by direct supervision or tele-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 cited: Sections 2532.2 and 2532.6, Business and Professions Code.

Hand Carry Item

Agenda Item 17(f):

Discussion and Possible Action to Adopt Regulations Regarding Notice to Consumers as stated in Title 16, CCR sections 1399.129 and 1399.157.1

Hand Carry Item

Agenda Item 18:

Discussion and Possible Action to Revise the Board's Administrative Procedure Manual