



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

Friday, February 24, 2023, 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:

Friday, February 24, 2023, WebEx Link, beginning at 9:00 a.m.:

If accessing by computer or online:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mf430a7505362d7ccbaf8a60fe13dff5>

If accessing by phone: Dial +1-415-655-0001 US Toll, Access code: 249 070 67378, Passcode: 75742302

To observe the meeting without the ability to provide public comment, a live stream of the Board Meeting will be available during each day of the meeting at <https://thedcapage.blog/webcasts/>

Due to potential technical difficulties, please consider submitting written comments by 5:00 pm, Tuesday, February 21, 2023, 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.

Friday, February 24, 2023, beginning at 9:00 a.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. 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
4. 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
5. 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
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 Dispensers Trainee and Temporary License Supervision as stated in Title 16, California Code of Regulations (CCR) sections 1399.115 through 1399.119
4. Adjournment

Upon Adjournment of the Hearing Aid Dispensing Committee Meeting

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
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist
VACANT, Hearing Aid Dispenser
VACANT, Public Member

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. Review and Possible Approval of the October 27 - 28, 2022, Board Meeting Minutes
4. Review and Possible Approval of the December 13, 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. Update on Board Committee Composition and Assignments
 - ii. Audiology Practice Committee Report
 - iii. Hearing Aid Dispensing Committee Report
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 Releases of Online Applications for Licensure

BREAK FOR LUNCH (TIME APPROXIMATE)

9. Discussion and Possible Action to Revise the Board's Administrative Procedure Manual
10. Legislative Report: Update, Review, and Possible Action on Proposed Legislation
 - a. Legislative Calendar and Deadlines
 - b. 2022 Legislation Implementation Updates
 - i. AB 107 (Salas, Chapter 693, Statutes of 2021) Licensure: veterans and military spouses
 - ii. AB 2686 (Berman, Chapter 415, Statutes of 2022) Speech-language pathologists, audiologists, and hearing aid dispensers
 - iii. SB 1237 (Newman, Chapter 386, Statutes of 2022) Licenses: military service
 - iv. SB 1453 (Ochoa Bogh, Chapter 450, Statutes of 2022) Speech language pathologists
 - c. 2023 Board-Sponsored Legislation
 - i. Omnibus Proposal – Gender Neutral Language in the Board's Practice Act
 - d. 2023 Bills with Recommended Watch Status
 - i. AB 381 (Rubio) Teacher credentialing: services credential with a specialization in health: occupational and physical therapists
 - ii. SB 259 (Seyarto) Reports submitted to legislative committees
11. 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)
12. 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 Program and Academic Requirements as stated in Title 16, CCR sections 1399.170.4, 1399.170.10, and 1399.170.11
13. Future Agenda Items

CLOSED SESSION

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.

OPEN SESSION

15. Adjournment

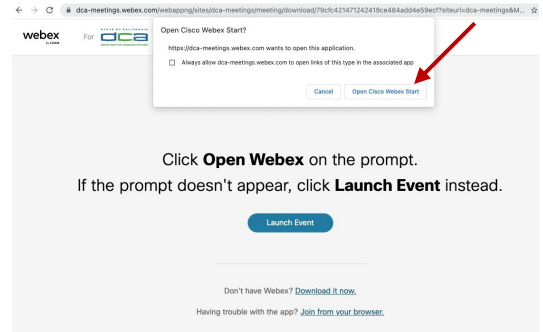
Agendas and materials can be found on the Board's website at www.speechandhearing.ca.gov.

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.

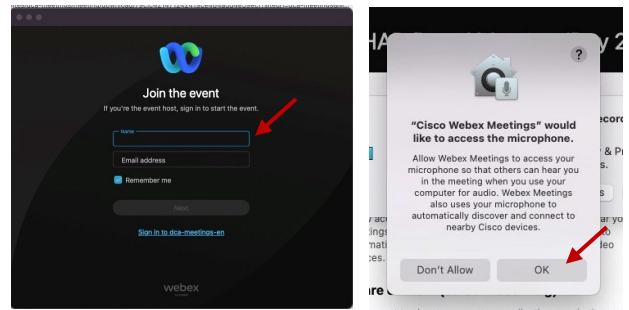
The meeting facility is accessible to persons with a disability. Any person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board office at (916) 287-7915 or making a written request to Cherise Burns, Assistant Executive 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.

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.



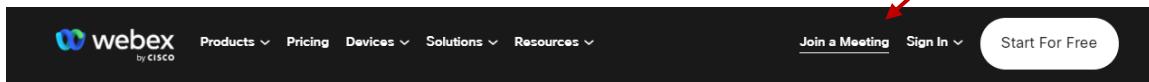
- 3 Enter your name and email address. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.



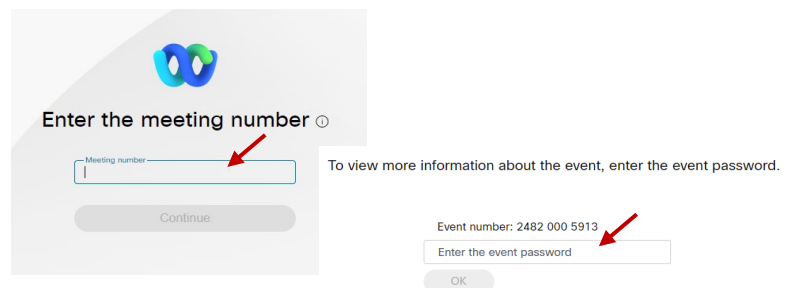
OR

If joining from Webex.com

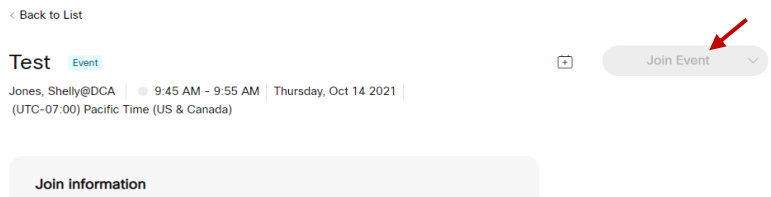
- 1 Click on "Join a Meeting" at the top of the Webex window.



- 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".



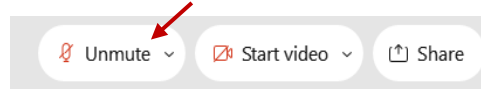
OR

Connect via telephone*:

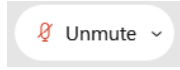
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

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

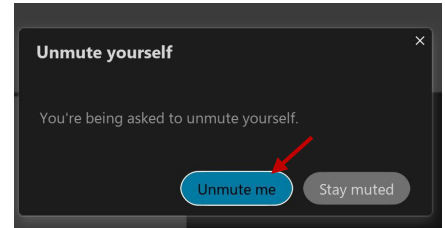


Green microphone = Unmuted: People in the meeting can hear you.



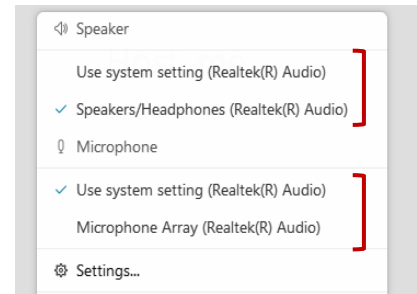
Red microphone = Muted: No one in the meeting can hear you.

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".



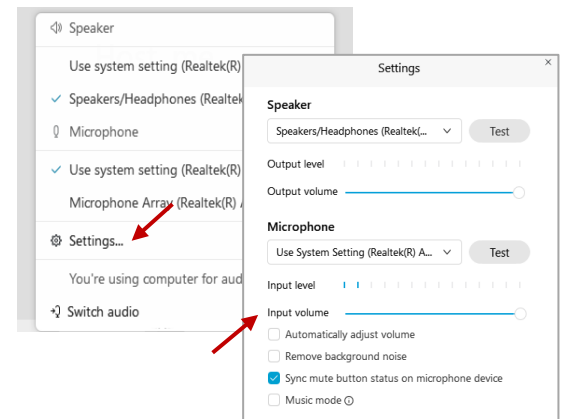
If you cannot hear or be heard

- 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

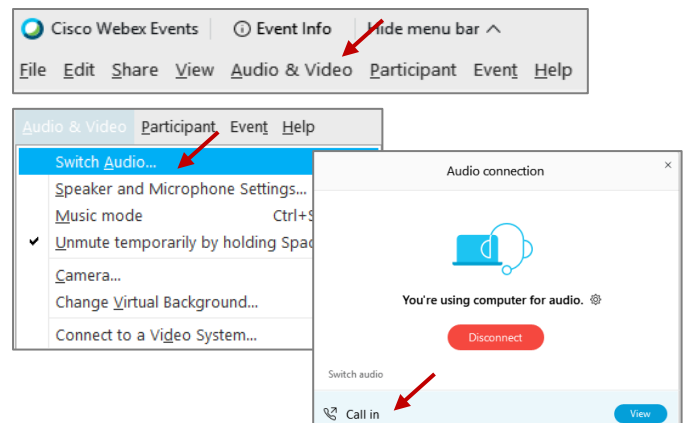
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on "Settings...":
 - Drag the "Input Volume" located under microphone settings to adjust your volume.



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.

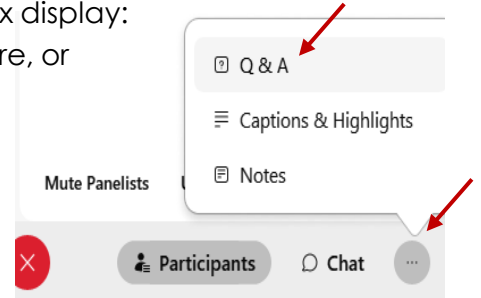
- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



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.*

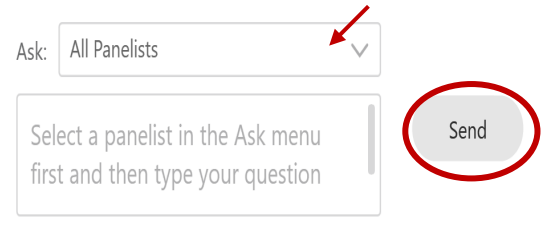
1 Access the Q&A panel at the bottom right of the Webex display:

- 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”.



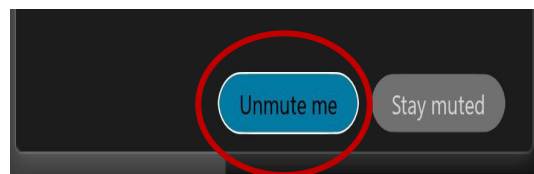
OR

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.

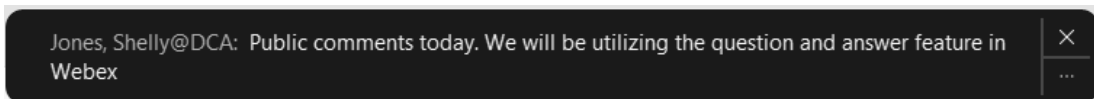


OR

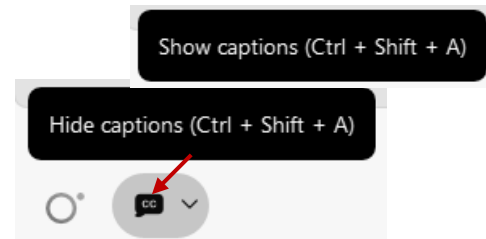
If connected via telephone:

- Press *3 to unmute your microphone.

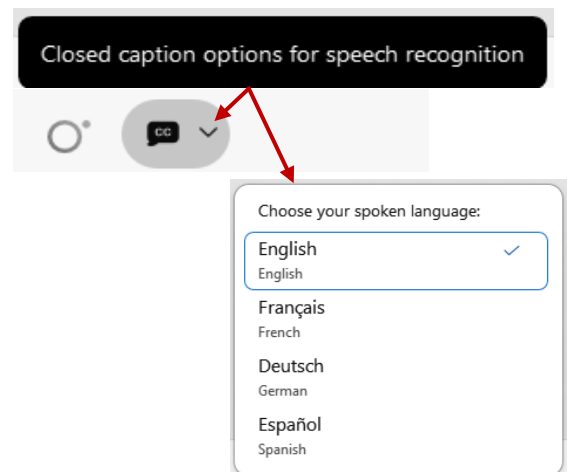
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



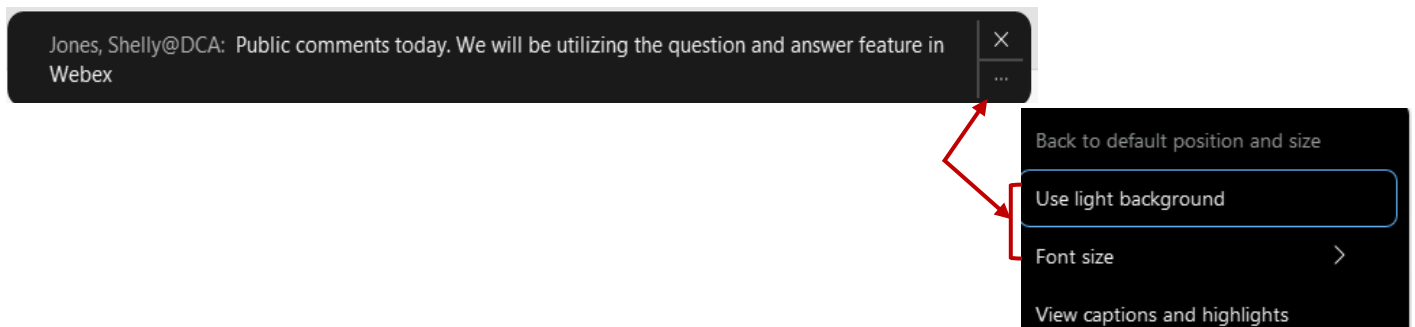
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



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

Audiology Practice Committee

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
Business and Professions Code (BPC) section
2530.2 and Title 16, California Code of
Regulations (CCR) sections 1399.154 through
1399.154.7

Hand Carry Item

Audiology Practice Committee

Agenda Item 4:

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



MEMORANDUM

DATE	February 1, 2023
TO	Hearing Aid Dispensers Committee
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 3: Discussion and possible action to Amend regulations regarding Hearing Aid Dispensers Trainee and Temporary License Supervision as stated in Title 16, California Code of Regulations (CCR) sections 1399.114 through 1399.119

Background

This proposed regulation will revise the supervision requirements for the Hearing Aid Dispensers (HAD) Trainee and Temporary License.

The last Board action on this proposed regulation was taken at the November 2018 Board meeting. The HAD Committee met on August 11, 2022, and October 27, 2022, to review changes identified by Board staff and recommended additional changes.

Summary of Changes

The proposed changes include changes identified during the discussion held on October 27, 2022:

- Amended section 1399.115 to align with 1399.116 and 1399.119.
- Amended section 1399.116(a) to specify requirements for multiple supervision.
- Amended section 1399.116(d) to clarify the continuing education requirements.
- Amended section 1399.118 to remove language regarding the termination of supervision and move it to section 1399.119.
- Noted for future changes:
 - Pending proposed regulatory changes regarding Uniform Standards, amend section 1399.102 to define “supervisor” as permanent license holders, and “training” as the instruction in the practice of fitting or selling of hearing aids.
 - Pending proposed regulatory changes regarding initial application, add a section to specify requirements for licensees working in multiple location.

Action Requested

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

Attachment: HAD Trainee and Temporary License Proposed Language

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

PROPOSED REGULATORY LANGUAGE
Hearing Aid Dispensers Trainee and Temporary License Supervision

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
----------------	---

Amend Sections 1399.115, 1399.116, 1399.117, 1399.118, and 1399.119 of Article 6 of Division 13.3 of Title 16 as follows:

§ 1399.115. Denial, Suspension, or Revocation of Authority to Supervise.

(a) The Board may refuse to approve, or approve subject to terms and conditions, a hearing aid supervising dispenser's authority to supervise a trainee-applicant or temporary license holder, or may suspend, revoke, or impose probationary conditions on a hearing aid supervising dispenser's authority to supervise a trainee-applicant or temporary license holder for any of the following causes:

(1) The failure to comply with ~~section~~ Section 2538.28 of the Code or any of the regulations contained in this ~~article~~ Article which is a prima facie violation, or is confirmed by an internal investigation report signed by the Executive Officer, or by a formal investigation by the Division of Investigation of the department within the preceding 36 months. "Confirmed by formal investigation" means the investigator assigned the matter has written a final investigation report which has been countersigned by a Supervising Special Investigator.

(2) The violation of any provision of Article 8 of Chapter 5.3 of Division 2 of the Code Hearing Aid Dispensers Licensing Law or the regulations contained in this division which is confirmed by an internal investigation report signed by the Executive Officer, or by a formal investigation by the Division of Investigation of the department within the preceding 36 months. "Confirmed by formal investigation" means the investigator assigned the matter has written a final investigation report which has been countersigned by a Supervising Special Investigator.

(3) The dispenser's license has been revoked, suspended, or subject to any restrictions within the preceding 36 months.

(4) An Accusation has been filed against the **supervising** dispenser under the Administrative Procedure Act by the Attorney General's office and the charges are pending.

(5) The provision of false or misleading information during the application process.

(6) The conviction of a crime involving fiscal dishonesty for which the **supervising** dispenser has been on probation or parole within the preceding 36 months.

(b) The Board shall refuse to approve a ~~hearing aid supervising~~ dispenser's authority to supervise a trainee-applicant or temporary license holder if the ~~hearing aid supervising~~ dispenser has not possessed a **valid, current, active, and unrestricted** license as a hearing aid dispenser **or dispensing audiologist** in California for at least three (3) **consecutive** years preceding the date on which the application for approval was received by the Board.

(c) A ~~hearing aid supervising~~ dispenser may appeal the denial, suspension, revocation, or imposition of probationary conditions upon ~~his or her~~ their authority to supervise a trainee-applicant or temporary license holder by filing such an appeal in writing with the Board's office in Sacramento within 60 days of denial, suspension, revocation or imposition of probationary conditions. The appeal will be considered by the Board within 45 days of receipt of the appeal in the Board's office. If action under this section results in the termination of supervision ~~and training~~ of a trainee-applicant or temporary license holder, then the supervising ~~hearing aid~~ dispenser shall so notify the Board in accordance with section **1399.118, subsection (g)1399.119(j)(2).**

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

§ 1399.116. Supervision of Trainee Applicants Requirements of the Supervisor.

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

(1) A written request to the Board with the following information:

(A) Supervisor's full legal name, address of record, license number, business telephone number, business name, business address, and the supervisor's email address, if any;

(B) The applicant's full name, business name, business address, business telephone number, applicant's license number, and the applicant's email address, if any;

(C) A written statement, signed by the applicant certifying that the applicant has discussed the plan for supervision with this supervisor and agreed to its implementation and will not provide professional services until the applicant has been issued a license, and further certifying under penalty of perjury that all of the statements made in the application are true and correct, and that any misrepresentation may be cause for denial of a license.

(D) A written statement, signed by the supervisor certifying that the supervisor has discussed the plan for supervision with the applicant and accepts responsibility for their performance, understands that professional services cannot be rendered until a license has been issued, and further certifying that under penalty of perjury that all of the statements made in the application are true and correct.

(b) To supervise trainee-applicants or temporary license holders, a supervising dispenser shall meet the following criteria prior to the commencement of supervision:

(1) the supervising dispenser shall have possessed a ~~valid-current, active, and unrestricted~~ license as a hearing aid dispenser or dispensing audiologist and engaged in the practice of fitting and selling hearing aids for at least three (3) consecutive years;

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

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

~~(bc)~~ A ~~licensed hearing aid-supervising~~ dispenser shall not in any circumstance supervise more than three (3) trainee-applicants or temporary license holders at any one time.

(d) Any supervision commencing on Month XX, 20XX (next full year after the effective date), the supervising dispenser shall complete a minimum of four (4) hours of continuing professional education in supervision training prior to assuming responsibility as a supervisor, and complete two (2) hours of continuing education in supervision every four (4) years thereafter.

(1) Continuing education obtained from by a Board-approved provider as defined in section 1399.141 may be applied towards the continuing education requirement for licensees set forth in section 1399.140.

(2) Any lapse in supervision will require the completion of a minimum of four (4) hours of continuing professional education in supervision training prior to reassuming responsibility as a supervisor.

(3) The supervisor shall maintain records of course completion in supervision training for a period of four (4) years after the renewal period in which it was earned.

(e) If a trainee-applicant or temporary license holder has more than one supervisor, each supervisor shall submit a written request as stated in subsection (a). Of the multiple supervisors, one shall be designated as the lead supervisor for purposes of assisting the trainee-applicant or temporary license holder in their compliance with the requirements set forth in this Article.

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

§ 1399.117. Representation of Trainee-Applicant Temporary License.

A trainee-applicant or temporary license holder shall, when engaged in the fitting or selling of hearing aids, present ~~himself or herself~~ themselves to the public as a hearing aid dispenser trainee or temporary license holder. Trainee-applicants or temporary license holders may not refer to themselves in any advertising or promotional literature as anything but a hearing aid dispenser trainee or temporary license holder, as appropriate.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 335, 2538.30, and 2533, Business and Professions Code.

§ 1399.118. Supervision and Training Required.

~~The supervision and training of a trainee-applicant under Section 2538.28 of the Code engaged in the fitting or selling of hearing aids shall include the following:~~

- (a) Intervention into the fitting and selling process by the supervisor.
- (b) Inspection of the fitting and selling process by the supervisor.
- (c) Training consisting of at least the following for the duration of the trainee-applicant's temporary license:
 - ~~(1) Review and counter signing of the results of each fitting and sale of a hearing aid~~ Pure tone air and bone conduction audiometry;

~~(2) Reevaluation of the fitting and selling techniques of the trainee applicant at least weekly Speech Recognition Threshold;~~

~~(3) Being readily available to the trainee applicant to render advice and give instruction and assistance in the fitting and selling of hearing aids Most Comfortable Loudness;~~

~~(4) Word Recognition;~~

~~(5) Uncomfortable Loudness;~~

~~(6) Masking for pure tone air and bone conduction audiometry, Speech Recognition Threshold, and Word Recognition;~~

~~(7) Electroacoustic analysis equipment and essential American National Standards Institute standards;~~

~~(8) Choosing appropriate hearing aid styles relative to hearing loss, client dexterity, and cosmetic concerns;~~

~~(9) Hearing aid fitting software;~~

~~(10) Verification techniques for hearing aid fitting including real ear measurements;~~

~~(11) Hearing aid troubleshooting;~~

~~(12) Assessment of ear mold impression and creation of ear mold impressions; and~~

~~(13) Otoscopic inspection of the ear.~~

(d) Instruction in the procedures for the fitting and selling of hearing aids required by Chapter ~~5.37.5~~, Division 2 of the Code.

(e) Training with instruments and equipment generally considered to produce valid hearing measurements necessary to the fitting and selling of hearing aids.

(f) A statement that the supervisor has agreed to accept the responsibility for the ~~supervision and training~~ of the applicant as required by Section 2538.28 of the Code.

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

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

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

(g) The supervisor shall maintain a record in the trainee-applicant's personnel file that verifies that they met the requirements set forth in this section.

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

§ 1399.119. Direct Supervision Requirements.

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

(a) "Direct supervision" means the supervising dispenser is on-site and in proximity to where the trainee-applicant or temporary license holder is engaged in the practice of fitting and selling of hearing aids, and the supervising dispenser is available at all times to provide observation, guidance, and assistance to the trainee-applicant or temporary license holder.

(b) "Immediate supervision" means the supervising dispenser is physically present and immediately available in the same room to give aid, direction, and instruction to the trainee-applicant or temporary license holder.

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

(d) The supervising dispenser shall provide immediate supervision any time one of these services are provided: otoscopic inspection of the ear, or ear impressions for hearing aids or ear molds.

~~(ae) The supervising dispenser is present within the same work setting a minimum of 20 shall provide immediate supervision one hundred (100) percent of the time in which the trainee applicant is providing services during the first ninety (90) calendar days of the supervision.~~

(bf) After a minimum of ninety (90) calendar days or until the supervisor determines competency, whichever occurs later, with the exception of those services provided in subsection (d), the supervising dispenser shall approve the selection of hearing aid by a trainee applicant provide direct supervision.

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

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

(i) The supervisor shall maintain a record in the trainee-applicant's or temporary license holder's personnel file that verifies that they met the requirements set forth in this section.

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

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

(2) The supervisor or trainee-applicant or temporary license holder gives written notification to the Board that they are terminating supervision and training, or

(A) Written notification for the purposes of this subdivision shall include the full legal name, license number, and signature of both the trainee-applicant or temporary license holder and supervisor; the supervisor's business address, business telephone number, email address, if any, and the effective date of the termination.

(B) The notification shall contain certification under penalty of perjury that all statements made in the Termination of Supervision document are true and correct in every respect and that misstatements or omissions of material facts may be cause for denial of the application to terminate supervision, or for suspension or revocation of a license.

(3) The trainee-applicant or temporary license holder reaches the maximum number of renewal periods set forth in Section 2538.28(c) of the Code.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 2538.11, 2538.28, and 2538.30, Business and Professions Code.



MEMORANDUM

DATE	February 1, 2023
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 3: Review and Possible Approval of the October 27-28, 2022 Board Meeting Minutes

Background

Attached is a draft of the meeting minutes from the October 27-28, 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 October 27-28, 2022 Board Meeting minutes.

Attachment: October 27-28, 2022 Board Meeting Minutes



MEETING MINUTES – DRAFT
Teleconference Meeting
October 27-28, 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 1:03 p.m. Dr. Raggio called roll; three 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 (departed: 2:01 p.m.)
Tulio Valdez, Otolaryngologist, Public Member (arrived: 2:01 p.m.)
Amy White, Dispensing Audiologist

Staff Present

Paul Sanchez, Executive Officer
Cherise Burns, Assistant Executive Officer
Michael Kanotz, DCA Legal Counsel
Heather Olivares, Legislation/Regulation Analyst
Maria Liranzo, Legislation/Regulation/Budget Analyst
Tenisha Ashford, Enforcement Coordinator
Karen Halbo, DCA Regulation Counsel
Shelly Jones, DCA SOLID
Cesar Victoria, DCA Office of Public Affairs

2. Public Comment for Items Not on the Agenda

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

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

Dr. Raggio opened the discussion on the review and possible approval of the minutes. Maria Liranzo provided a summary of the minutes. Dr. Raggio asked staff to explain the delay in presenting the minutes for the Board's approval. Ms. Liranzo replied that it was delayed due to limited staffing.

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

Amy White moved to approve the September 23, 2020, Audiology Practice Committee Meeting Minutes.

Karen Chang seconded the motion.

The motion carried 3-0. (Ayes: Raggio, Chang, White)

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

Dr. Raggio opened the discussion and provided a background regarding requirements related to Audiology Aide scope of practice and supervision. Dr. Amy White commented on the history of the Speech-Language Pathology Assistant (SLPA) and if there is a need for a similar audiology assistant license.

Dr. Raggio inquired on what approach the Board should take. Dr. White replied that the aide license needs to be better defined and noted that the American Academy of Audiology issued a position statement on audiology assistants. Dr. White expressed concerns on establishing limitation to the current use of aides. Dr. Raggio commented on the Sunrise process to establish a new license and noted this would be the process the Board would take if it desired to create an audiology assistant. Paul Sanchez commented on the Sunrise process and regulatory process being equally challenging and noted that regulations regarding aides will need to be reviewed regardless.

Dr. White asked what the law permits an aide to perform. Dr. Raggio replied that regulatory language suggests an aide assists while the activity is occurring as opposed to an aide trained to perform a task that they would perform on their own once competent. Dr. White commented on the requirements for audiology aide and hearing trainee. Mr. Sanchez provided a background on the evolution of the Board and amendments to regulations regarding hearing aid trainee. Cherise Burns commented on the difference between audiology aide and hearing aid trainee.

Karen Chang asked if the Board could create something similar to SLPA. Dr. Raggio inquired on the evolution of the SLPA registration. Mr. Sanchez replied that SLPA was created out of necessity and a demand for services and the limitations of the Speech-Language Pathology Aide registration. Ms. Burns commented on Speech-Language Pathology Aides being similarly limited as an Audiology Aide. Mr. Sanchez stated that the Board needs to answer whether the current language limits the audiology services provided through an Audiology Aide provides and if there is a demand to go beyond those limitations. Dr. White commented on the differences of services provided by an Audiologist and Speech-Language Pathologist (SLP) and where those services are provided and how they are reimbursed.

Dr. Raggio commented on the motivation to create a SLPA license instead of broadening the aide license. Ms. Burns replied that professional associations will approach their licensing board to create a new license. Dr. White asked if there is a difference in billing for services performed by a SLPA and an aide. Mr. Sanchez commented on the limitations the current definition of SLP aide as it compares to SLPA. Ms. Burns commented on the requirements for SLPA. Dr. White commented on the differences of services provided by in the practice of audiology and speech-language pathology.

Ms. Burns asked if there is a need for someone to perform routine task. Dr. White replied that health technicians in Veterans Affairs medical facilities perform otoscopy and ear impression, and train clients on use and care of a hearing aid device. Dr. Raggio commented on tasks SLPAs perform as not posing a risk to consumer safety whereas tasks in audiology may pose a higher risk. Dr. White asked if aides should be required to complete a certain amount of education. Dr. Raggio replied that education is required for a SLPA and not for an Audiology Aide. Dr. White inquired what other tasks aside from otoscopy and ear impression would pose a risk to consumer safety. Dr. Raggio replied that tympanometry could present a risk to consumer safety.

Dr. Raggio and Dr. White asked if Board staff can provide information regarding the development of the SLPA license. Mr. Sanchez replied that Board staff can research the information.

Dr. Raggio inquired on the supervision requirements for SLPA. Ms. Liranzo replied that the level of supervision is based on the duties performed by the SLPA and noted that regulations specify this and duties outside their scope of practice. Ms. Burns noted that they can be found in Title 16 of the California Code of Regulations sections 1399.170, 1399.170.2, and 1399.170.3. Dr. White commented on the level of SLPA supervision requirements. Dr. Raggio commented on guardrails set on duties performed by SLPA.

Dr. Raggio inquired about the changes to SLPA supervision requirements. Ms. Liranzo replied that the Board desires a higher level of supervision for SLPAs after initial licensure and proposed changes that will require 20 percent per week for the SLPA's work schedule during the first 90 days of work following initial licensure to be immediate supervision.

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

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

Dr. Raggio opened the discussion regarding audiology supervised clinical and professional experience. Ms. Burns provided a background on the survey that was provided to audiology programs. Dr. Raggio provided a background on previous discussion on this topic.

Ms. Burns commented that Board staff will present the data collected from the survey at the next committee meeting. Dr. Raggio inquired on the deadline to complete the survey. Ms. Burns replied that the deadline was December 31, 2022.

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

6. Adjournment

The meeting adjourned at 2:09 p.m.

Hearing Aid Dispensing Committee

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

Tod Borges, Committee Chair, called the Hearing Aid Dispensing Committee (Committee) meeting to order at 2:32 p.m. Mr. Borges called roll; four 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 (arrived: 2:45 p.m.)
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
Heather Olivares, Legislation/Regulation Analyst
Maria Liranzo, Legislation/Regulation/Budget Analyst

Tenisha Ashford, Enforcement Coordinator
Karen Halbo, DCA Regulation Counsel
Shelly Jones, DCA SOLID
Cesar Victoria, DCA Office of Public Affairs

Guest Present

Linda Oliver
Marty and Bob

2. Public Comment for Items Not on the Agenda

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

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

Mr. Borges opened the discussion regarding regulations related to hearing aid dispensing trainees. Ms. Liranzo provided a background and summary of changes. Mr. Borges asked for public comments. There were no comments from the public, outside agencies, or associations.

Mr. Borges asked where in the language should the termination of supervision be specified. Ms. Liranzo replied that this language is specified in section 1399.118 regarding training which is only applicable to trainee and not temporary licensee, and suggested to add it to either sections 1399.116 or 1399.119. Mr. Borges commented on having it specified in both sections. Dr. Raggio, Dr. Valdez, and Dr. White commented on having it specified in one section. Dr. Raggio noted a misspelling in section 1399.118(c).

Mr. Borges asked about the timeframe for the continuing education (CE) in section 1399.116(d). Ms. Liranzo commented that the language suggests its four hours for every new supervision. Dr. Raggio and Dr. White commented that this is not the intention. Mr. Borges asked how it was going to be verified. Ms. Liranzo replied that it will be an item Board staff will look if the person is a supervisor and their CE is audited. Ms. Burns commented that the intent may be when the person becomes a supervisor for the first time and noted that RPE supervision in section 1399.153.3 uses the language "prior to assuming responsibility as a RPE supervisor." Dr. White expressed agreement to using similar language and tie it to the supervisor and not the trainee.

Dr. Raggio asked what happens if there is a lapse in maintaining this requirement. Ms. Burns replied that it could be language to include as it hasn't been discussed previously. Mr. Borges and Dr. White commented on requiring the four-hour requirement to be completed if the supervisor fails to maintain the two-hour requirement. Ms. Burns noted the suggested change.

Mr. Borges asked if record retention for the CE requirement be different from the renewal requirement and suggested four years. Ms. Burns noted the suggested change.

Mr. Borges inquired of Board staff how Business and Professions Code 2538.30 relates to section 1399.199. Ms. Liranzo replied that the Board had concerns that trainees are operating a business unsupervised because they are currently required to be supervised for 20 percent of the time and inquired on situations that need to be addressed by these proposed changes such as when a supervisor is unavailable or at a different location. Dr. White asked if this is an issue if one hundred percent supervision is required during the first ninety calendar days of supervision. Mr. Borges asked if there is a way to have an alternate supervisor. Ms. Burns replied that a place to provide an alternate supervisor can be added to the application and noted that the proposed regulations will require supervisors to provide direct supervision after the first ninety calendar days which is defined as the supervisor being on site. Mr. Borges and Dr. White inquired on the eighty-twenty supervision requirements. Ms. Liranzo replied that proposed changes being reviewed today was adopted in 2018 to change the 80/20 supervision because the regulations does not specify the type of supervision for the 80 percent of the trainee's time which may indicate that they may be independently operating a business. Dr. White commented on trainees performing tasks that it is not client care such as answering the phone, scheduling, or cleaning. Ms. Burns asked if "indirect" supervision should be defined. Dr. Valdez inquired on the number of businesses with multiple dispensers. Mr. Borges replied that a majority of businesses have one dispenser. Dr. White commented on RPEs working at different locations and having different supervisors at those different locations and meeting the requirements to supervise. Mr. Borges and Dr. White expressed agreement to add language regarding multiple supervisors. Ms. Burns noted the suggested changes.

Ms. Liranzo asked if it was common for trainees to be at different locations or branches. Mr. Borges replied that theoretically they would if their primary supervisor isn't available. Ms. Liranzo commented that Board staff may need to add language regarding branch locations as there is a form that is not specified in regulations.

Ms. Liranzo asked if the definitions related to this regulation align with the goals of the proposed changes, specifically if a temporary license holder should be a supervisor. Mr. Borges suggested that only permanent license holders should be supervisors. Dr. Raggio, Ms. Chang, and Dr. White expressed agreement to the suggested change. Ms. Liranzo noted the suggested change and commented that the definition will be amended to make it also applicable to Dispensing Audiologists.

Dr. Raggio asked if the definition of "training" should be amended to include audiometry to fit a hearing aid. Ms. Burns replied that the language can be amended to align with statutory language which is "the practice of fitting or selling."

Ms. Borges asked if sections 1399.115 and 1399.116 are in alignment. Ms. Burns suggested cross-referencing and inquired of Karen Halbo for suggested changes. Ms. Halbo replied that the suggested change may not be a problem.

Mr. Borges asked for public comments. Linda Oliver asked if there is a stipulation regarding experience a dispenser must have before supervising. Ms. Liranzo replied that 1399.116(b)(1) will require that a dispenser have three consecutive years of experience.

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 regarding regulations related to hearing aid dispensing advertising requirements. Ms. Liranzo provided a background and summary of changes.

Mr. Borges and Dr. Raggio commented on specifying the field of study when advertising a Ph.D. Dr. Valdez asked if audiologists could use the title "doctor" or any variation of this term without the designation of AUD. Mr. Borges replied that the language states that you can't call yourself a doctor without specifying the field of study unless you are a physician or surgeon licensed in this state. Ms. Burns commented that they would need include AUD when advertising themselves as a doctor.

Ms. Liranzo asked if subsection (d)(4) regarding the advertisement of hearing tests needs to be clarified. Mr. Borges and Dr. Raggio commented on audiologists performing more testing than a Hearing Aid Dispenser and the language should differentiate the license type. Ms. Liranzo noted that this requirement would be applicable to both Hearing Aid Dispensers and dispensing audiologists. Ms. Chang inquired why the language cannot remain the same. Mr. Borges replied that this is only applicable to Hearing Aid Dispenser. Mr. Sanchez commented that a restriction like this would not apply to a dispensing audiologist. Mr. Borges and Dr. White suggested the language can state hearing test performed by a Hearing Aid Dispenser. Mr. Borges commented on not being familiar with the second part of subsection (d)(4). Dr. Raggio commented on the problem of hearing tests being advertised for research to get consumers to make a purchase after. Mr. Borges suggested pulling it out. Dr. White expressed agreement to the suggested change. Mr. Sanchez asked if an Audiologist advertises free hearing tests. Mr. Borges, Dr. White, and Dr. Raggio replied that they do. Dr. Raggio commented on advertising and third-party administrator issues. Dr. White commented on advertising and Medicare issues.

Ms. Liranzo inquired about consumers verifying price accuracy and holding national companies accountable if advertisements violate the proposed regulations. Mr. Borges and Dr. Raggio replied that there is no reliable way to verify price accuracy. Dr. White commented that the Board could look at sale receipts to determine the normal price of the device if a complaint was filed with the Board. Dr. Raggio and Dr. White commented on the manufacturer's suggested retail price (MSRP). Mr. Borges and Dr. Raggio

commented that most companies do not offer MSRPs. Ms. Chang commented on creating prices without the MSRP and asked if there was any way to regulate this requirement. Mr. Sanchez asked how Board staff would be able to determine if prices were inflated. Dr. White replied that the purchase agreements and sales receipts for a particular model would need to be reviewed and see how they were charged. Ms. Burns asked if Board staff would review purchase agreements and sales receipts. Dr. White replied that it would be Board staff if a complaint were filed. Ms. Sanchez commented on a prior investigation the Board conducted regarding the method to ascertain the actual price.

Mr. Borges inquired on the federal law regarding transparency and pricing. Dr. White replied that consumers must be made aware of cost they will be charged by a certain timeframe.

Ms. Burns inquired about the term “actual” and if another term would better fit with what has been discussed. Dr. White suggested changing the term to say “standard”. Mr. Borges expressed agreement with the suggested change.

Ms. Liranzo asked if the Committee would like to continue the discussion regarding a national company’s advertisements that violate the proposed regulations. Mr. Borges commented on the issue of dispensers being held accountable for something their national company did without their knowledge.

Ms. Halbo asked how the sentence will end for subsection (f). Ms. Liranzo replied it is when the advertisement is published or disseminated. Ms. Burns noted the errors on the document uploaded on the Board website.

Dr. White commented on this being the only way to enforce this requirement. Mr. Borges and Ms. Chang asked if the national company can be fined. Ms. Burns replied that it is outside the Board’s jurisdiction. Ms. Chang asked if Hearing Aid Dispensers are fined if their national company advertisement violates any of these requirements. Ms. Liranzo replied they would if a sale resulted from the advertisement. Ms. Chang asked if a warning is provided. Mr. Sanchez replied that the Board works with the licensees in cases of national companies and commented on the Board’s enforcement process. Ms. Burns commented that the language state “discipline or enforcement action” so the Board has many options in how it can enforce this requirement.

Ms. Burns asked DCA Legal about the use of the language being removed as educational materials. Ms. Halbo replied that restating the regulations is fine but if it goes beyond that, such as providing instructions, then it is considered an underground regulation. Ms. Liranzo noted the meeting materials includes a copy of the information currently on the Board’s website.

Mr. Borges asked why the information was being removed and replaced with the proposed language. Mr. Sanchez replied that previous DCA Legal counsel and the Board decided it wasn’t the best way to write regulations at the time they were reviewing

this section and could use the previous format for educational based on the revised regulations. Dr. White commented on the information being used on the website under a Question and Answer (Q&A) or Frequently Asked Question (FAQ) section.

Mr. Sanchez commented that the Committee can move forward with the text and Board staff can work with DCA in developing educational information and materials.

Ms. Liranzo and Mr. Burns commented on the changes discussed to subsection (d)(4) and subsection (e)(1). Ms. Chang, Dr. Raggio, and Dr. White expressed agreement to move the text forward to the Board.

Mr. Borges asked for public comments. Marty and Bob expressed their appreciation for the discussion.

Mr. Borges asked for committee discussion and public comments on the motion. There was no committee discussion nor comments from the public, outside agencies, or associations on the motion.

Marcia Raggio moved to approved regulations amending sections 1399.127 as amended to subsection (d)(4) and (e)(1) in the Committee.

Tod Borges seconded the motion.

The motion carried 5-0. (Ayes: Borges, Raggio, Chang, Valdez, and White)

5. Adjournment

The meeting adjourned at 4:11 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 9:03 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
Tulio Valdez, Otolaryngologist, Public Member (departed: 12:35 p.m.)
Amy White, Dispensing Audiologist

Staff Present

Paul Sanchez, Executive Officer
Cherise Burns, Assistant Executive Officer
Michael Kanotz, DCA Legal Counsel
Heather Olivares, Legislation/Regulation Analyst
Maria Liranzo, Legislation/Regulation/Budget Analyst
Tenisha Ashford, Enforcement Coordinator
Karen Halbo, DCA Regulation Counsel
Shelly Jones, DCA SOLID
Cesar Victoria, DCA Office of Public Affairs
David Bouilly, DCA SOLID

Guest Present

Shellie Bader
Andrea Ball
Nicole Fields

2. Public Comment for Items Not on the Agenda

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

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

Dr. Raggio acknowledged Debbie Snow for her service to the Board and read the certificate of appreciation presented to Ms. Snow. Dr. Raggio, Paul Sanchez, and Holly Kaiser commented on Ms. Snow's service to the Board.

Ms. Snow expressed gratitude for comments and gifts provided in appreciated for her service.

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

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

Dr. Raggio opened the discussion on the review and possible approval of the August 2022 Board Meeting Minutes. Ms. Liranzo provided a summary of the minutes.

Dr. Raggio asked for Board comments or amendments. There was no Board discussion.

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

Karen Chang moved to approve the August 11-12, 2022, Board meeting minutes.

Tod Borges seconded the motion.

The motion carried 8-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, Valdez, White)

5. DCA Update – DCA Board and Bureau Relations

Dr. Raggio invited staff from DCA Board and Bureau Relations to provide an update.

Shelly Jones acknowledged Debbie Snow for her service to the Board and provided an update on the position filled in DCA's Board and Bureau Relations; establishment of the Diversity, Equity, and Inclusion Committee; Our Promise campaign; COVID-19 safety measures for in-person public meetings; state travel; and DCA's partnership with the unclaimed property program.

Dr. Raggio asked if individuals have to pay their own way to travel to states subject to California's state-funded and state-sponsored travel ban. Ms. Jones replied to confirm and commented on verifying the information.

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

6. Board Chair's Report

Dr. Raggio opened the discussion with the Board and Committee Meeting Calendar and noted that there will be a discussion on the potential dates for 2023. Dr. Raggio also noted vacancies in committees once Ms. Snow's term ends.

Ms. Snow reported on the discussion from the Enforcement Ad Hoc Committee meeting held on October 27, 2022.

Dr. Raggio reported on the discussion from the Audiology Practice Committee meeting held on October 27, 2022.

Mr. Borges reported on the discussion from the Hearing Aid Dispensing meeting held on October 27, 2022.

Mr. Borges asked how long it takes before proposed changes to regulations become effective. Cherise Burns replied that it can take about 18 months to two years after the Board approves proposed changes.

Mr. Borges asked how the public is notified of changes. Ms. Burns replied that they are highlighted when meeting agendas are sent out, the licensed population is notified of public comments, and the licensed population is notified once the rulemaking process is complete and on how to be in compliance. Mr. Sanchez commented on educational efforts regarding regulatory process the Board can consider.

Mr. Borges asked if Board Members can attend various conferences. Mr. Sanchez replied that this is outreach effort the Board does and invited Board Members to reach out to him.

Mr. Borges inquired on the next stage for the proposed regulatory changes regarding trainees. Ms. Liranzo replied that it will return to the committee.

Dr. Raggio asked if Board staff will provide the Audiology Practice Committee historical information regarding speech-language pathology assistant (SLPA) license. Ms. Burns replied to confirm that it will be provided at a future meeting.

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

7. Executive Officer's Report

Dr. Raggio invited Mr. Sanchez to provide the Executive Officer's report. Mr. Sanchez reported on the Business Modernization Project (Biz Mod) including backfilling a vacant position created by the project.

Mr. Sanchez reported on outreach efforts including a presentation at the California Academy of Audiology (CAA) Annual Conference, a presentation of the online licensing system for California Council of Academic Programs in Communication Sciences and Disorders, and participation at the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology conference.

Mr. Sanchez reported on the budget and fund condition and noted the months in reserve.

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 the launch of the online applications, practical examination results, licensing and enforcement statistics, and disciplinary actions.

Dr. Raggio asked if there are any issues with the online system. Mr. Sanchez and Ms. Burns replied with information on user and system errors that occurred since launching the first round of applications and the process used to troubleshoot those issues.

Dr. Raggio asked if there are information technology (IT) staff readily available to help. Mr. Sanchez and Ms. Burns replied that there are DCA IT and SimpliGov staff available to troubleshoot as issues arise.

Dr. Raggio inquired on the launch timeframe. Mr. Sanchez and Ms. Burns replied that the anticipated project deadline for the first round of applications was for 2023 but the Board was able to work with the vendor for fall 2022 launch date.

Dr. Raggio asked how the public is being informed of the online application system. Ms. Burns replied that the new online application system is being announced at conferences and noted that marketing material will be provided once all the applications are online. Mr. Sanchez commented that the Board website will direct applicants to the online system once they are available.

Ms. Kaiser asked if there was a way for users to provide feedback. Ms. Burns replied that there is no feature for feedback but Board staff could look into it.

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

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

Dr. Raggio invited Mr. Sanchez to provide an update on the Board's Biz Mod Project. Mr. Sanchez provided a brief update on the Board's Biz Mod Project and deferred to Ms. Burns for the upcoming releases of online applications. Ms. Burns provided an update on the upcoming release dates for the remaining applications and commented on the process to link the new system with current DCA systems. Mr. Sanchez commented on the cost of the project and funding source.

Dr. Raggio inquired on renewal processes. Ms. Burns replied that there are no changes to the renewal process which can be completed online or via the paper that is mailed.

Dr. Raggio asked if there is a possibility where licensees can download their license instead of the Board mailing them. Mr. Sanchez replied that the Board may consider moving away from the current renewal process of mailing the license to an electronic process. Ms. Burns commented that other IT projects to address other areas of the Board's business processes would need to go through its own process for approval and implementation.

Dr. Raggio asked if the grant the Board received is one-time or can the Board reapply. Ms. Burns and Mr. Sanchez replied on the availability of the California Department of Technology (CDT) Technology Modernization Fund.

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

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

Dr. Raggio invited Mr. Sanchez to provide an update on the Board's Strategic Plan and Governor's Executive Order N-16-22. Mr. Sanchez provided an update and noted that he was invited to participate in DCA's Diversity, Equity, and Inclusion Steering Committee.

Dr. Raggio asked if the goal to bring diversity to the Board includes staff. Mr. Sanchez replied that diversity as a hiring practice has been around for years, and the current Administration is renewing emphasis and efforts. Ms. Burns commented on the high level of diversity in the Board's staff compared to entities she worked at previously.

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

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

Dr. Raggio invited Mr. Sanchez to provide an update on U.S. Food and Drug Administration (FDA) final rule for over-the-counter (OTC) hearing aids. Mr. Sanchez provided an update and noted the Board received one complaint related to OTC hearing aids.

Dr. Raggio asked what the complaint was about. Mr. Sanchez replied that the person wanted their money back to purchase an OTC after the final rule came out.

Dr. Raggio commented on concerns that the American Academy of Audiology, Academy of Doctors of Audiology, and American Speech-Language-Hearing Association raised regarding FDA's final rule. Dr. Raggio noted that the American Academy of Audiology is hosting a webinar on November 1st regarding OTC hearing aids.

Dr. White commented on the confusion with the rule. Dr. Raggio and Dr. White commented on patients inquiring about it.

Ms. Burns commented on previous discussions regarding the Board being able regulate licensed Hearing Aid Dispenser and Dispensing Audiologist under the Practice Act and warranties laws being applicable to OTC hearing aids.

Dr. Raggio commented on previous discussions regarding the Board's jurisdictions over OTC hearing aids.

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

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

Dr. Raggio invited Mr. Sanchez and Mr. Borges to discuss possible action regarding dome removal. Mr. Sanchez provided a background on an inquiry Board staff received regarding if there are any restrictions on Hearing Aid Dispensers to perform dome removal if appropriate training, safeguards, and policies were in place. Mr. Borges commented on dome removal and noted the company in reference is a company he works for.

Mr. Borges asked if anyone from Hearing Life was available to provide more information to the Board. There were no comments from the public.

Mr. Borges commented that statutory language has requirements for removal of foreign objects prior to performing a test but no language regarding after the test. Mr. Borges further commented on current objects that are inserted in the ear as part of the hearing test and asked if this is an issue that should be referred to the Hearing Aid Dispensing Committee.

Dr. Valdez asked how many dispensers are trained in dome removal and noted that it depends on the depth an object in the ear canal. Mr. Borges commented that the company is creating a training for dispensers to perform this and commented on the depth an object may be removed from.

Dr. White commented on the comparison of dome removal with cerumen removal. Mr. Borges commented on the law not being clear in regard to dome removal and noted that cerumen removal is more invasive than dome removal due to the tools used. Dr. White commented on domes being found beyond the first bend of the ear canal.

Dr. Valdez asked if dispensers have the tools to perform dome removal like a microscope. Mr. Borges asked if you need a microscope to see a dome at the first bend of an ear canal. Dr. Valdez replied not so much for dome and commented on cerumen removal. Dr. Raggio commented on the size of the dome and noted wax guards are common items that get stuck in the ear and asked if this training would allow this. Mr. Borges replied that it would be what the Board decides and expressed not being interested in performing wax guard removal. Mr. Borges commented on a magnified headlamp allowing a person to see a dome in the first bend of an ear canal and noted that this would be a two-person procedure.

Dr. Raggio asked if dispensers have headlamps. Mr. Borges replied that they don't necessarily have them but they would if it is required. Dr. Valdez commented on the problem of dispensers performing procedures without having the proper tools or

training. Mr. Borges commented that the company in reference will ensure they receive training.

Dr. Raggio asked who would provide the training. Mr. Borges replied that it would be who the Board decides and noted the company in reference requires individuals to watch a video. Mr. Borges commented that this is an issue the Board can look into. Dr. Raggio commented that the Board can consider regulations regarding post fitting issues.

Mr. Sanchez commented on post fitting issues being worthy of discussion that can be addressed through statutory or regulatory changes. Mr. Sanchez and Ms. Burns commented on the purpose of the practical examination. Gilda Dominguez commented on the training and certification of clinical teams and asked how that would be achieved. Mr. Borges replied that it would depend on how the removal is performed. Dr. Raggio commented on patients with medical conditions that can increase the risk in performing this procedure.

Dr. Valdez asked if it can be performed at the entrance of the ear canal. Mr. Borges replied that a discussion is needed to decide what is or isn't allowed. Dr. Raggio expressed concerns with video-based training. Dr. Valdez commented that he hasn't seen Audiologists perform this in his medical practice. Mr. Borges commented on the need to address this issue and suggested it be referred to the Hearing Aid Dispensing Committee. Mr. Sanchez commented on the action requested by Board staff. Dr. Raggio suggested the committee consider statutory language to address post fitting issues and a position on this issue. Ms. Burns noted that the statutory language is silent on post fitting issues. Mr. Borges commented on the lack of clarity creating opportunity to create trainings like this. Dr. Raggio commented on the issue of personal judgment.

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

Tod Borges moved to delegate this issue for further discussion and development by the Hearing Aid Dispensing Committee.

Karen Chang seconded the motion.

The motion carried 8-0. (Ayes: Raggio, Kaiser, Borges, Chang, Dominguez, Snow, Valdez, White)

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

Dr. Raggio provided a background on previous discussions regarding audiology aides and the consideration to create an audiology assistant license type. Heather Olivares provided a background on the Sunrise process to create a new license type.

Dr. Raggio asked why an arduous process exists to create a new license type. Mr. Sanchez replied that there has always been a rigorous process but the process was formalized in recent years. Ms. Olivares and Ms. Burns commented on the opportunity it provides for public participation.

Dr. Raggio inquired on the number of applications submitted for new license type. Ms. Burns replied there are currently four new licenses being requested.

Dr. Raggio inquired on the different process to make regulatory changes to aides. Mr. Sanchez and Ms. Burns replied that those would go to the regulatory process through the Office of Administrative Law. Ms. Burns commented that it can take eighteen months to a year once the Board approves the language and it can take a year or more to have a language ready for Board approval depending on the complexity of the changes.

Mr. Borges asked if the Board needs to consider a new license type if it makes regulatory changes to aides. Dr. Raggio replied that regulatory changes to aides will be required if a new license type is created. Ms. Burns and Mr. Sanchez commented on the possibility of doing regulatory changes and the sunrise process concurrently.

Ms. Kaiser asked how long the Sunrise process can take. Mr. Sanchez replied that it took two years when he worked at Veterinary Medical Board. Ms. Kaiser commented on the history of SLPA, how they are used, billing when using them, and changes to professional standards regarding SLPA supervision. Ms. Dominguez commented on billing when using SLPA and noted that Medicare doesn't reimburse for services provided by SLPAs or Aides.

Dr. Raggio asked why creating SLPA was controversial when it was first created. Ms. Kaiser replied on the fear with change and commented on their acceptance today and the training they receive.

Dr. Raggio asked if SLPAs are able to perform endoscopy. Ms. Dominguez replied that they are not according to regulations. Ms. Kaiser commented on what SLPAs can and cannot perform. Dr. Raggio asked if it would include dysphasia. Ms. Dominguez replied that it would include any evaluation whether it is speech-recognition or dysphasia and noted that regulations prohibit SLPAs from performing oropharyngeal swallow therapy with material. Dr. Raggio commented that graduate students at her school can perform those procedure and asked why SLPAs can't. Ms. Burns replied that those are graduate students on the path to become licensed SLPs. Ms. Dominguez commented on SLPAs being able to perform these on their own as a future discussion. Dr. Raggio asked if SLPAs assist with a Barium Swallow. Ms. Dominguez replied they may be utilized.

Dr. Raggio inquired on the questionnaire and scale for the Sunrise process. Ms. Olivares replied on the materials provided for the discussion.

Dr. Raggio inquired on the renewal process for aides. Mr. Sanchez replied that statutes were changed to allow for renewal and it may require regulatory changes. Ms. Burns commented on implementing the statutory language by creating a renewal form. Ms. Dominguez asked if this will be a similar format as the initial registration. Ms. Burns replied that it will.

Dr. White asked what kind of information should be collected for the Sunrise process. Ms. Burns replied that it can be referred to the Audiology Practice Committee to work on if the Board wants to consider. Ms. Olivares commented on paralleling audiology assistant to SLPA.

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

Tod Borges moved to delegate this issue to the Audiology Practice Committee.

Amy White seconded the motion.

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

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

Dr. Raggio invited Mr. Sanchez to provide an update on the Board's Sunset Review and the Board's Sunset bill. Mr. Sanchez provided an update and noted Board staff working on implementing the changes and working with DCA IT for any IT changes.

Dr. Raggio commented on the amount of work it takes to complete this process. Mr. Sanchez commented on the report being available to the public on the Board's website. Ms. Burns commented on the opportunity to educate the legislature and staff.

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

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

Dr. Raggio invited Ms. 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. Ms. Olivares noted an update on bills with recommended watch status are in the materials provided.

Ms. Chang asked if dead bills can be revived in the next session. Ms. Olivares replied that it would have to be reintroduced and noted that any dead bills are done at the end of a two-year legislative session.

Ms. Kaiser inquired on the bills regarding virtual public meetings. Ms. Olivares replied that the Board is operating under an exemption that is set to expire on June 30, 2023. Ms. Burns and Mr. Olivares commented on discussions to make the exemption permanent. Ms. Burns commented on meetings being a hybrid model.

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

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

Dr. Raggio invited Ms. Olivares to provide a background on an omnibus legislative proposal regarding the removal of gendered pronouns from the Board's Practice Act. Dr. Raggio inquired on the deadline to introduce this bill. Ms. Olivares replied that the bill will need to be introduced and complete the process next year for the changes to be effective on January 1, 2024.

Dr. Raggio asked if the Board has other bills or if this is a compilation with other boards. Ms. Olivares replied that it will be included in a bill with other boards who are making non-substantive changes.

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

Gilda Dominguez moved 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.

Karen Chang seconded the motion.

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

16. Legislative Items for Future Meeting

Dr. Raggio solicited legislative items for future meeting. Ms. Burns noted that Board staff have no items at this time.

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

17. 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 asked for the meaning of “repealing processing times.” Ms. Olivares replied that the regulatory text is being removed because the statutory requirement no longer exists.

Ms. Kaiser asked how changes to the SLPA supervision can be made. Ms. Liranzo replied that the Board can make changes when it reviews public comments after the comment period ends.

Dr. Raggio asked for public comments on the regulatory report.

Shellie Bader commented on revisions to regulatory changes to SLPA supervision regarding immediate supervision during the first ninety-days and aligning it with changes the American Speech-Language-Hearing Association (ASHA) made to their SLPA supervision guidelines.

Andrea Ball on behalf of the California Speech Language Hearing Association (CSHA) commented on increasing access to tele-health for Californians who live in remote locations, flexibility for supervisors to take ownership of supervision and guidance on continuing education, and modifications to proposed language regarding Required Professional Experience (RPE) supervision.

Nicole Fields commented on current regulations regarding tele supervision.

Ms. Olivares provided a background and summary of changes to modify regulations regarding RPE direct supervision requirements and tele supervision.

Dr. Raggio noted that it drew a lot of public comments. Mr. Borges and Ms. Dominguez expressed having no problems with the modified language as drafted. Ms. Dominguez commented on the public comment regarding who can document patient consent to tele supervision and noted that the modifications address this concern. Ms. Kaiser commented on the modifications that addressed her concern under section 1399.153.3(c)(1)(E), and commented on Board’s discussion regarding all the direct supervision hours being tele supervised.

Dr. Raggio asked for public comments to modify regulations regarding RPE direct supervision requirements and tele supervision.

Nicole Fields commented on tele supervision being effective as in-person supervision.

Andrea Ball on behalf of the CSHA expressed support for the motion.

Holly Kaiser moved 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.

Debbie Snow seconded the motion.

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

Ms. Liranzo provided a background and summary of changes to modify regulations regarding Notice to Consumers.

Dr. Raggio asked for public comments to modify regulations regarding Notice to Consumers. There were no comments from the public, outside agencies, or associations.

Karen Chang moved to approve the proposed modified regulatory text for 16 CCR sections 1399.129 and 1399.157.1, 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.

Gilda Dominguez seconded the motion.

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

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

Dr. Raggio invited Ms. Burns to provide a background on the Board's Administrative Procedure Manual. Ms. Burns provided a summary of changes since the Board's last discussion to revise the Board's Administrative Procedure Manual

Ms. Kaiser asked how long the Board members have to provide feedback. Ms. Burns replied that the Board can adopt it at the next Board meeting and update it annually if there is a need.

Mr. Borges asked if the only changes are stylistic. Ms. Burns replied that the majority of changes are stylistic and included are changes as discussed at the Board's August 11-

12, 2022, Board Meeting. Mr. Borges asked what the meaning of “no vote will be recorded for a member who has been ‘recused’” on page 9 item 7. Ms. Burns replied that it would be a non-vote. Michael Kanotz commented that it is as if a person were not present.

Dr. Raggio suggested to table the item for a future meeting.

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

19. Election of Board Officers

Dr. Raggio opened the discussion on the election of Board Officers for 2023 and asked for any nominations for Board Chair.

Ms. Kaiser nominated Dr. Raggio for Board Chair. Ms. Chang seconded the nomination.

Dr. Raggio nominated Ms. Kaiser for Board Vice Chair. Ms. Chang seconded the nomination.

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

Approve the nomination of Marcia Raggio as Board Chair.

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

Approve the nomination of Holly Kaiser as Board Vice Chair.

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

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

Dr. Raggio solicited future agenda items.

Ms. Kaiser inquired on changes to proposed regulations regarding SLPA supervision to align with ASHA’s changes to their SLPA supervision guidelines. Ms. Burns replied that the Board will look at them after the 45-day comment period.

Dr. Raggio asked for discussion regarding audiology assistants. Ms. Burns replied that the Audiology Practice Committee will look at it before it comes back to the Board.

Dr. Raggio solicited future agenda items from the public. There were no comments from

the public, outside agencies, or associations.

Dr. Raggio requested potential dates for the Board Meetings in 2023. Ms. Burns replied with a list of potential dates for the Board Meetings:

- First Board meeting on February 23-24 with alternatives on March 16-17, February 2-3, or February 9-10
- Second Board meeting on May 18-19 with alternatives on May 11-12, April 13-14, or April 27-28
- Third Board meeting on August 24-25 with alternatives on September 7-8, September 14-15, or August 17-18
- Fourth Board meeting on October 26-27 with alternative on November 2-3, December 7-8, or November 31-December 1

Ms. Burns noted February 23-24 for the first Board meeting.

Ms. Chang commented on being unavailable on May 18-19 and noted April 27-28 is best. Mr. Kanotz commented on being unavailable on May 11-12. Ms. Kaiser expressed agreement with April 27-28. Ms. Burns noted April 27-28 for the second Board meeting.

Ms. Kaiser commented on being unavailable on September 14-15. Dr. White noted the California Academy of Audiology (CAA) will be holding a conference on September 8. Ms. Chang commented on being unavailable on August 24-25. Ms. Burns requested the annual conference dates for CAA. Dr. White replied that she received an email with the dates September 8-9. Ms. Borges requested earlier dates. Ms. Burns replied that the Board can consider August 17-18. Ms. Chang commented on August 17-18 being better. Mr. Kanotz commented on being unavailable on August 17-18. Ms. Chang commented on trying to be available on August 24-25. Ms. Burns asked if August 31-September 1 would work and noted it is before a holiday weekend. Board members expressed disagreement with those dates. Ms. Burns asked if the Board would like to make this meeting remote. Board members expressed agreement. Ms. Burns noted August 24-25 for the third Board meeting which will be remote.

Mr. Borges commented on preferring that the meeting is not on October 26-27.

Ms. Burns noted November 2-3 for the fourth Board meeting. Ms. Dominguez asked for a later date for the last meeting. Ms. Burns replied December 7-8. Dr. Raggio asked if she will be able to participate. Ms. Burns replied that her term ends January 1, 2024. Mr. Kanotz commented on being unavailable on December 7-8. Ms. Burns asked if November 31-December 1 would work and noted it is the week after Thanksgiving. Mr. Borges, Ms. Dominguez, and Ms. Chang expressed agreement to this date. Ms. Burns noted November 31-December 1 for the last Board meeting in 2023.

Ms. Burns commented on the locations for the Board meetings with two being remote and two in-person with one in Sacramento and the other in Southern California. Ms. Chang commented on Mt. San Antonio College being a suitable location in Southern California. Mr. Dominguez commented on a hotel circle being nearby.

Dr. Raggio asked for public comments on potential dates for Board Meetings in 2023. There were no comments from the public, outside agencies, or associations.

Holly Kaiser moved to approve the proposed dates for Board Meetings in 2023 as stated.

Gilda Dominguez seconded the motion.

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

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.

The Board did not meet in a closed session to discuss disciplinary matters.

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.

The Board met in closed session to conduct the annual performance evaluation of its executive officer and subsequently adjourned for the day.

23. Adjournment

The meeting adjourned at 4:11 p.m.



MEMORANDUM

DATE	February 1, 2023
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 December 13, 2022 Board Meeting Minutes

Background

Attached is a draft of the meeting minutes from the December 13, 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 December 13, 2022 Board Meeting minutes.

Attachment: December 13, 2022 Board Meeting Minutes



MEETING MINUTES – DRAFT
Teleconference Meeting
December 13, 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.

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 1:01 p.m. Dr. Raggio called roll; five 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
Gilda Dominguez, Speech-Language Pathologist
Tulio Valdez, Otolaryngologist, Public Member (arrived 1:30 p.m.)
Amy White, Dispensing Audiologist

Staff Present

Paul Sanchez, Executive Officer
Cherise Burns, Assistant Executive Officer
Michael Kanotz, DCA Legal Counsel
Maria Liranzo, Legislation/Regulation/Budget Analyst
Karen Halbo, DCA Regulation Counsel
Tenisha Ashford, Enforcement Coordinator
Lisa Snelling, Licensing Coordinator
Ann Fisher, DCA SOLID
Elizabeth Coronel, DCA SOLID
Alex Cristescu, DCA Office of Public Affairs
Judie Bucciarelli, DCA Executive Office

Guest Present

Jody Winzelberg
Michele

2. Public Comment for Items Not on the Agenda

Dr. Raggio asked for public comments on items not on the agenda. There were no comments from the public, outside agencies, or associations.

3. 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

Dr. Raggio invited Maria Liranzo to provide a background and an update on proposed regulations regarding Uniform Standards. Ms. Liranzo provided the background and update noting that Board staff is not recommending changes to the text due to public comments and that a summary of comments with draft Board responses are included in the meeting materials.

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

Holly Kaiser moved to approve the proposed Board responses to Comments, and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations at Title 16, CCR Sections 1399.102, 1399.131, 1399.131.1, 1399.155, and 1399.155.1 as noticed.

Tod Borges seconded the motion.

The motion carried 5-0. (Ayes: Raggio, Kaiser, Borges, Dominguez, White)

4. Discussion and Possible Action to Adopt Regulations Regarding Notice to Consumers as stated in Title 16, CCR sections 1399.129 and 1399.157.1

Dr. Raggio invited Ms. Liranzo to provide a background and an update on proposed regulations regarding Notice to Consumers. Ms. Liranzo provided the background and update noting that Board staff is not recommending additional changes to the text due to public comments and that a summary of comments with draft Board responses are in the meeting materials. Ms. Liranzo further noted that included in the meeting materials are the different methods that licensees can choose from to provide notice to consumers.

Dr. Raggio asked Paul Sanchez to discuss the evolution of the Notice to Consumer issue. Mr. Sanchez discussed the statutory authority for this regulation and commented that it has been around since 1998.

Dr. Raggio inquired on the draft Board response to a common complaint. Mr. Sanchez replied that other boards are in compliance or will be in compliance with this statutory requirement and that this Board is not the only board requiring this type of notice. Cherise Burns commented on what other boards are doing to be in compliance with this statutory requirement.

Dr. Raggio commented on the public comment regarding requiring over-the-counter hearing aid sellers to comply with this requirement and noted that, even though the Board cannot require over-the-counter hearing aid sellers to comply with the requirements, licensees who sell over-the-counter hearing aids will be required to comply with the requirements.

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

Tod Borges moved to approve the proposed Board responses to Comments, and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations at Title 16, CCR Sections 1399.129 and 1399.157.1 as noticed.

Gilda Dominguez seconded the motion.

The motion carried 5-0. (Ayes: Raggio, Kaiser, Borges, Dominguez, White)

5. 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

Dr. Raggio invited Ms. Burns to provide a background and an update on proposed regulations regarding Required Professional Experience Direct Supervision Requirements and Tele-Supervision. Ms. Burns provided a summary of comments with draft Board responses and noted that the Board can consider additional changes to the text due to public comments regarding limiting tele-supervision on a quarterly basis rather than a monthly basis.

Dr. Raggio inquired on the actions the Board can take. Ms. Burns replied that the Board can make a change to accommodate the comment or not make a change and that there is suggested motions for both actions.

Tod Borges commented on not making changes to accommodate the comment because the in-person contact with the supervisor would be inconsistent. Gilda Dominguez expressed agreement to Mr. Borges comment that in-person supervision should take place each month.

Holly Kaiser commented on the public comments regarding limiting tele-supervision on a quarterly basis rather than a monthly basis and inquired on how 1399.153.3(e) would apply to the tele-supervision. Ms. Burns replied that it would limit the amount of tele-supervision based on a quarterly system. Dr. Amy White commented on the flexibility of tele-supervision on a quarterly basis.

Mr. Borges inquired on tele-supervision for direct supervision. Ms. Burns replied that the required hours are still there, but supervisors will have a choice such as one month is in-person, another month is tele-supervision, and another month is half in-person supervision and half tele-supervision.

Ms. Kaiser inquired on the 15-day notice if changes were made to accommodate the comment. Ms. Burns replied that the comments during a 15-day notice would have to be on the most recent changes and not on the original text or earlier proposed revisions to the text.

Ms. Dominguez inquired on a month not being in-person. Ms. Burns replied that under a quarterly requirement that there could be a month where there is not in-person supervision. Ms. Dominguez commented on the consistency that a monthly versus a quarterly requirement for supervisors to provide in-person input and feedback. Mr. Borges commented on the effectiveness of tele-supervision compared to in-person supervision. Ms. Dominguez commented on regulations being applicable to all work settings.

Ms. Kaiser inquired on the use of the phrase "supervisor's supervision" in sections 1399.153.3(b) and 1399.153.3 (d)(5). Ms. Burns replied that it appears redundant but that is the correct use.

Ms. Kaiser expressed agreement to the comments of Mr. Borges and Ms. Dominguez regarding not making changes to accommodate the comment. Dr. White expressed agreement to not making changes to accommodate the comment. Ms. Burns directed Board members to the second suggested motion comment included in the meeting materials.

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

Gilda Dominguez moved to approve the proposed responses to public comments as outlined in this memo, direct staff to take all steps necessary to complete the rulemaking process, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations or the responses to comments that may be required in completing the rulemaking file and adopt the proposed regulatory changes as noticed.

Tod Borges seconded the motion.

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

6. Future Agenda Items

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

Dr. Raggio asked for public comments.

Michele asked if there could be a discussion on RPE license processing time and reducing the time. Dr. Raggio replied that the Executive Officer reports on the licensing processing time in his Executive Officer Report and will be addressed under that agenda item. Michele asked if the public is informed through email. Dr. Raggio replied that an email regarding Board meetings is sent with a copy of the agenda. Mr. Sanchez commented that the public can write to the Board regarding questions and that Board staff can respond or an item can be added for a future agenda.

7. 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 did not meet in a closed session to discuss disciplinary matters.

8. Adjournment

The meeting adjourned at 1:56 p.m.



MEMORANDUM

DATE	February 16, 2023
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. 2023 Board Meeting Calendar

MEETING CALENDAR/ AGENDAS/ MINUTES					
Meeting Date	Location	Agenda	Meeting Materials	Minutes	Webcast
2023					
November 30 – December 1, 2023 Board Meeting	TBD, Southern California				
August 24-25, 2023 Board Meeting	Teleconference				
April 27-28, 2023 Board Meeting	Sacramento, CA				
February 24, 2023 Board Meeting	Teleconference	Agenda			

b. Board Committee Updates and Reports

Due to the changes in the Board’s Sunset Bill effective in 2023 and current vacancies on the Board, the Board Committee composition and assignment changes below are being proposed.

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

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.

SLP PRACTICE COMMITTEE <i>Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.</i>		
Name	Position	Profession
Holly Kaiser	Chair	SLP
Gilda Dominguez	Member	SLP
Vacant	Member	Public
AUDIOLOGY PRACTICE COMMITTEE <i>Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.</i>		
Name	Position	Profession
Marcia Raggio	Chair	DAU
Amy White	Member	DAU
Tulio Valdez	Member	ORL/Public
Karen Chang	Member	Public
HEARING AID DISPENSERS PRACTICE COMMITTEE <i>Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.</i>		
Name	Position	Profession
Tod Borges	Chair	HAD
VACANT	Member	HAD
Karen Chang	Member	Public
HEARING AID DISPENSING COMMITTEE <i>Provides policy and regulatory guidance with respect to HAD practices and recommends scope of practice amendments for consideration.</i>		
Name	Position	Profession
Tod Borges	Chair	HAD
VACANT	Member	HAD
Marcia Raggio	Member	DAU
Amy White	Member	DAU
Tulio Valdez	Member	ORL/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 <i>Develop for the Board's review the Board's Sunset Review Report to the California Legislature</i>		
Name	Position	Profession
Marcia Raggio	Chair	AU
Holly Kaiser	Member	SLP
ENFORCEMENT AD HOC COMMITTEE <i>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.</i>		
Name	Position	Profession
Gilda Dominguez	Chair	SLP
Tod Borges	Member	HAD
LEGISLATIVE AD HOC COMMITTEE <i>Review and recommend to the Board proposed positions on legislation impacting the Board, its licensees, and the Board's Practice Act</i>		
Name	Position	Profession
Karen Chang	Chair	Public
Gilda Dominguez	Member	SLP

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

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

LICENSES ISSUED	FY	FY	FY	FY	FY	FY	FY	FY
	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23
								QTR 2
AU	48	53	77	63	63	71	79	33
DAU	26	24	30	35	31	23	28	21
AUT	0	0	2	4	3	1	4	1
SLP	1,352	1,457	1,482	1,446	1,444	1,621	1,782	866
SPT	0	0	0	0	0	0	1	0
SLPA	606	501	558	602	615	505	649	341
RPE	834	897	945	977	1,059	1,039	1,177	694
AIDE	44	44	33	32	44	22	44	30
PDP	22	21	20	15	5	13	14	7
HAD Permanent	140	120	137	135	95	55	108	48
HAD Trainee	180	152	169	156	116	93	124	76
HAD Licensed in Another State	16	16	20	17	12	11	22	5
HAD Branch	407	315	341	333	312	249	263	93
TOTAL LICENSES ISSUED	3,675	3,600	3,814	3,815	3,799	3,703	4,295	2,215

LICENSEE POPULATION	FY	FY	FY	FY	FY	FY	FY	FY
	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23
								QTR 2*
AU	556	698	720	831	837	830	869	855
DAU	1,045	1,211	1,246	1,334	1,384	1,375	1,416	1,444
<i>Both License Types</i>	<i>1,601</i>	<i>1,909</i>	<i>1,966</i>	<i>2,165</i>	<i>2,221</i>	<i>2,205</i>	<i>2,285</i>	<i>2,299</i>
AUT	0	0	2	4	7	8	8	8
SLP	14,860	18,024	19,161	21,374	22,527	23,309	24,894	25,405
SPT	0	0	0	0	0	0	1	0
SLPA	2,795	3,752	4,118	4,822	5,297	5,538	5,962	6,090
RPE	806	1,174	1,232	1,364	1,595	1,626	1,740	1,837
AIDE	133	235	216	245	273	290	306	301
PDP	160	174	177	178	165	160	152	150
HAD Permanent	996	1,179	1,266	1,380	1,407	1,398	1,439	1,447
HAD Trainees	158	238	204	214	237	243	267	278
HAD Licensed in Another State	18	18	28	31	42	47	66	65
HAD Branch Office	963	1,409	1,297	1,347	1,401	1,411	1,429	1,358
TOTAL LICENSEES	22,490	28,112	29,667	33,124	35,172	36,235	38,549	39,238

* Data as of January 4, 2023

Legend:

AU = Audiologist

DAU = Dispensing Audiologist

AUT = Audiologist Temporary

HAD = Hearing Aid Dispenser

RPE = Required Professional Experience

PDP = Continuing Professional Development

SLP = Speech-Language Pathologist

SPT = Speech-Language Pathologist Temporary

SLPA = Speech-Language Pathology

Assistant

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

COMPLAINTS AND CONVICTIONS	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Complaints Received	329	158	164	91	79	40
Convictions Received	128	124	103	45	48	23
Average Days to Intake	2	1	1	5	7	4
Closed	10	5	17	2	0	0
Pending	1	1	1	6	0	0

INVESTIGATIONS	Desk	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Assigned		446	273	260	131	131	67
Closed		388	188	189	193	178	54
Average Days to Complete		102	148	222	380	598	295
Pending		126	198	260	198	132	137

INVESTIGATIONS	DOI	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Assigned		17	13	9	0	1	0
Closed		19	12	10	8	6	1
Average Days to Complete		462	752	770	839	1,409	150
Pending		19	20	19	11	2	2

ALL TYPES OF INVESTIGATIONS	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Closed w/o Discipline Referral	386	183	181	187	178	52
Cycle Time - No Discipline	115	184	251	368	491	278

CITATIONS/CEASE & DESIST	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Citations Issued	26	16	11	6	7	4
Avg Days to Citation & Fine	82	155	336	429	1,138	790
Cease & Desist Letters Issued	3	1	0	2	0	1

ATTORNEY GENERAL CASES	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Pending at the AG	22	21	23	21	10	3
Accusations Filed	5	4	8	8	5	1
Statement of Issue (SOI) Filed	2	5	1	2	0	0
Accusation Withdrawn, Dismissed, Declined	4	3	1	0	1	2
SOI Withdrawn, Dismissed, Declined	0	4	1	0	0	0
Average Days to Discipline	780	1,741	824	2,245	1,362	1,471

ATTORNEY GENERAL FINAL OUTCOME	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 Q2
Probation Only	4	4	5	1	1	2
Surrender of License	3	1	3	3	2	0
License Denied (SOI)	3	2	1	0	1	0
Suspension & Probation	0	1	0	0	2	0
Revocation-No Stay of Order	3	1	3	2	4	0
Public Reprimand/Reproval	1	0	0	0	0	0

Note: All data provided prior to FY 2022-23 uses complaint open date as the start to any "Days to" data provided in this report.



MEMORANDUM

DATE	February 16, 2023
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 all of the remaining applications for licensure with the final release of applications on February 10, 2023. There is one final phase of the project to create an application status look-up page on the Board’s website, called Phase 4 of the Business Modernization Project. Applicants will be able to supply their personal information and view items that are still pending or are deficient with their application.

In coordination with DCA’s Communications Division, Board staff created an [Apply Simply!](#) page on the Board’s website and provided 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.



Throughout the development of the Apply Simply! online application system and launch of all the applications for licensure, 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 and staff resources 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 now that we have launched all of the applications. Board staff and our vendors continue to work to troubleshoot any issues with the launched online applications as well as implement enhancements that increase the functionality of these applications and ease of use for applicants.

The Board completed the launch of all of its applications on February 10, 2023 and will finish the final phase of its Business Modernization Project by Spring of 2023. The Board is currently on schedule to achieve this goal within the expected timeframe.

The Apply Simply! online application system and specific applications were launched in three releases as follows:

- **Release 1 – Went live starting 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 Pathologist license (Option #1 – RPE qualification method, Option #2 – Equivalent ASHA CCC qualification method, and Option #3 Previously Licensed in California qualification method).

- **Release 2 – Went live starting December 5, 2022**

The Board started launching Release 2 applications on December 5, 2022 with the Speech-Language Pathology Assistant registration. The Board then launched the Speech-Language Pathology and Audiology Aide registration on December 7, 2022, the Audiologist license (Option #3 – Previously Licensed in California qualification method) on December 12, 2022, and the Speech-Language Pathologist license (Option #3 – Licensed in Another State qualification method). Finally, the Board launched the Audiologist license (Option #2 – Licensed in another State qualification method) on January 3, 2023.

- **Release 3 – Went live starting February 1, 2023**

The Board launched the 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 on February 1, 2023. The Board completed the launching of last of its applications on February 10, 2023 with the launch of the Speech-Language Pathology (Option #5 – Foreign Educated qualification method) and Audiology (Option #2 – Equivalent Qualifications (ASHA CCC-A or AAA ABA Certification and Option #5 – Foreign Educated qualification methods).

The final phase of the project to create an application status look-up page on the Board's website (Phase 4) of the Business Modernization Project will be completed by Spring of 2023.

Action Requested

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



MEMORANDUM

DATE	February 15, 2023
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Cherise Burns, Assistant Executive Officer
SUBJECT	Agenda Item 9: Discussion and Possible Action to Revise the Board's Administrative Procedure Manual

Background

Boards and bureaus at Department of Consumer Affairs (DCA) adopt Administrative Procedure Manuals to provide guidance to Board Members regarding the roles and responsibilities of their position, rules of conduct, and the general processes and procedures to be followed in completing Board business. The Administrative Procedure Manual also provides transparency to the public on the Board's governance and administrative structure and the way the Board operates.

The Board met on August 13, 2022 to review and discuss potential updates to the Board's Administrative Procedure Manual. In accordance with the direction of the Board, staff made revisions to the 2016 Board Member Manual to include grammatical and formatting corrections as well as the following changes:

- Add the Board's mission, vision, values, and functions in Chapter 1
- Add Bagley-Keene Open Meetings Act provision regarding Board members communication outside of Board meetings and how meeting dates are determined, and update the information regarding the frequency of meetings, agenda, notice, meeting recording, and making a motion in Chapter 2
- Align Chapter 3 to DCA-wide or statewide policies and procedures and other legal requirements
- Update the information regarding Board officers' roles and responsibilities, Board officer elections, and committees in Chapter 4
- Align Chapter 6 to DCA-wide or statewide policies and procedures and other legal requirements
- Align Chapter 7 to DCA-wide or statewide policies and procedures and other legal requirements

At the October 28, 2022 Board Meeting, staff provided the Board with the updated Administrative Procedure Manual and the Board requested additional time to review the changes.

Action Requested

Staff recommends the Board review and discuss the updated Board Administrative Procedure Manual and provide any additional edits necessary for the adoption of the updated manual.

Attachment A: Revised Board Administrative Procedure Manual



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



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

Board Member Administrative Procedure Manual

~~August 2016~~ January 2023

TABLE OF CONTENTS

CHAPTER 1. INTRODUCTION	3
<u>Overview</u>	
<u>Mission</u>	
<u>Vision</u>	
<u>Values</u>	
<u>Board Function</u>	
General Rules of Conduct	
CHAPTER 2. BOARD MEETING PROCEDURES	6
Bagley-Keene Open Meeting Act	
Frequency of Meetings	
Board Member Attendance at Board Meetings	
Quorum	
Agenda Items	
Notice of Meetings	
Notice of Meetings to be Posted on the Internet	
Record of Meetings	
Recording of Meetings	
Use of Electronic Devices During Meetings	
Making a Motion at Meetings	
Attachment A: Guide to the Bagley-Keene Open Meeting Act	
CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES	10
Travel Approval	
Travel Arrangements	
Out-of-State Travel	
Travel Claims	
Salary Per Diem	
CHAPTER 4. SELECTION OF OFFICERS AND COMMITTEES	12
Officers of the Board	
<u>Roles and Responsibilities of Board Officers</u>	
Election of <u>Board Officers</u>	
<u>Board Officer Vacancies</u>	
<u>Committees and Creation of Committees</u>	
Committee Appointments	
CHAPTER 5. BOARD ADMINISTRATION AND STAFF	15
Board Administration	
Board Staff	
<u>Appointment of Executive Officer</u>	
Executive Officer Evaluation	
Legal Counsel	
Strategic Planning	

Legislation

CHAPTER 6. OTHER POLICIES AND PROCEDURES..... 17

- Board Member Orientation and Training
- Board Member Disciplinary Actions
- Removal of Board Members
- Resignation of Board Members
- Conflict of Interest
- Contact with Candidates, Applicants and Licensees
- Communication with Other Organizations and Individuals
- Gifts from Candidates
- Request for Records Access
- Ex Parte Communications

CHAPTER 7. COMPLAINT AND DISCIPLINARY PROCESS 21

- Introduction
- Disciplinary Options
- Proposed Decision
- Complaint Intake
- Unlicensed Activity
- Investigations
- Expert Review
- Citation and Fine
- Formal Disciplinary Actions
- Attorney General Role
- Filing Formal Charges
- Actions Preceding an Administrative Hearing
- Stipulation
- Determining Settlement Terms
- Formal Administrative Hearing
- Office of Administrative Hearings
- Board Review of Stipulations and Proposed Decision, and Default Decisions
- Ballot Procedure
- Ballot Vote Definitions
- Disqualification
- Ex Parte Communications
- Prosecution
- Mail Ballot Procedure
- Pleadings
- Mail Ballot Definitions
- Mail Ballot Votes

ATTACHMENTS

- Attachment A: Guide to the Bagley-Keene Open Meeting Act
- Attachment B: Department of Consumer Affairs Travel Guide
- Attachment C: Sunset Review Report

CHAPTER 1. INTRODUCTION

Overview

In 1973, the Legislature established the Speech-Language Pathology and Audiology Board (SLPAB) to protect the public from the unauthorized and unqualified practice of speech-language pathology and audiology. The SLPAB licensed speech-language pathologists (SLPs) and audiologists. A speech-language pathologist assesses and treats speech or communication disorders in children and disabled adults. An audiologist is a licensed health care professional who identifies, assesses, and manages disorders of the auditory, balance, and other neural systems. Audiologists evaluate, recommend, fit, dispense, and verify/validate hearing aids for patients ranging in age from newborns to the elderly.

In 2001, the Legislature created the Hearing Aid Dispensers Bureau (HADB) within the Department of Consumer Affairs as the licensing and regulatory agency for hearing aid dispensers, defined in statute as individuals engaged in the fitting or selling of hearing aids to an individual with impaired hearing. The HADB was charged with the education and protection of consumers in the purchase of hearing aids by ensuring the competency of hearing aid dispensers.

In 2010 (~~AB 1535 – Jones, Chapter 309, Statutes of 2009~~) the SLPAB and HADB were merged to create a new entity, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board). It also changed the governance structure of the Board to the following: two SLPs speech-language pathologists, two audiologists (one of whom must be a dispensing audiologist), and two hearing aid dispensers, all to be appointed by the Governor. The Governor also has the appointing authority for a public member seat to be occupied by a licensed physician and surgeon, certified in otolaryngology. Two other public member seats are to be appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively. Board mMembers may serve up to two, four-year terms. Board mMembers are paid \$100 for each day actually spent in the discharge of official duties and are reimbursed travel expenses.

The Board is one of the bBoards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, the Board has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

Protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is

inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code (BPC) §2531.02.)

The purpose of this handbook is to provide guidance to Board mMembers regarding general processes and procedures involved with their position on the Board. It also serves as a useful source of information for new Board mMembers as part of the induction process.

Mission

We protect the people of California by promoting standards and enforcing the laws and regulations that ensure the qualifications and competence of providers of speech-language pathology, audiology and hearing aid dispensing services.

Vision

Every person in the State of California has access to diagnosis, treatment of communication disorders, and related services of the highest quality.

Values

- Consumer protection: We make effective and informed decisions in the best interest of and for the health and safety of Californians.
- Efficiency: We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.
- Integrity: We are committed to honesty, ethical conduct and responsibility.
- Professionalism: We ensure that qualified, proficient and skilled staff provide services to Californians.
- Accountability: We accept personal responsibility for our actions, exemplifying high ethical standards and always striving to improve our effectiveness.
- Effectiveness: We make informed decisions that make a difference and have a positive, measurable impact.
- Service: We acknowledge all stakeholders, listen to them, and take their needs into account.

Board Function

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board regulates the practices of speech-language pathology, audiology, and hearing aid dispensing in California by licensing those who meet minimum standards of

competency. Among its functions, the Board promulgates laws and regulations; issues, renews, suspends, and revokes licenses; and imposes disciplinary sanctions, when necessary.

General Rules of Conduct

The following rules of conduct detail expectations of Board mMembers. The Board is comprised of both public and professional members with the intention that, together, the Board can collectively protect the public and regulate the Speech-Language Pathology, Audiology and Hearing Aid Dispensing professions.

- Board mMembers' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board mMembers shall recognize the equal role and responsibilities of all Board mMembers.
- Board mMembers shall adequately prepare for Board responsibilities.
- Board mMembers shall not speak or act for the Board without proper authorization.
- Board mMembers shall maintain the confidentiality of non-public documents and information.
- Board mMembers shall act fairly, be nonpartisan, impartial and unbiased in their role of protecting the public.
- Board mMembers shall treat all applicants and licensees in a fair and impartial manner.
- Board mMembers shall not use their positions on the Board for personal, familial or financial gain.

CHAPTER 2. BOARD MEETING PROCEDURES

All ~~h~~Healing ~~a~~Arts ~~b~~Boards under the DCA, including the Board must meet in accordance with the provisions set forth by the Bagley-Keene Open Meeting Act. The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Bagley-Keene Open Meetings Act

The Bagley-Keene Act of 1967, officially known as the Bagley-Keene Open Meeting Act, implements a provision of the California Constitution which declares that "the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny", and explicitly mandates open meetings for California State agencies, Boards, and commissions. The act facilitates accountability and transparency of government activities and protects the rights of citizens to participate in State government deliberations. Similarly, California's Brown Act of 1953 protects citizen rights with regard to open meetings at the county and local government level.

The Bagley-Keene Act stipulates that the Board is to provide adequate notice of meetings to be held to the public as well as provide an opportunity for public comment. The meeting is to be conducted in an open session, except where closed session is specifically noted.

The Bagley-Keene Act also stipulates that a majority of the Board members cannot participate in a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as email) to discuss, deliberate, or take action on any matter within the subject matter of the Board's jurisdiction outside of the Board meetings.

To learn all of the provisions set forth by the Bagley-Keene Open Meeting Act, sSee Attachment A for the entitled Guide to the Bagley-Keene Open Meeting Act.

Frequency of Meetings

The Board is mandated to hold one meeting annually (~~Business and Professions Code BPC~~ section 2531.7) but generally meets four times annually to make policy decisions and review committee recommendations. Additional meetings may be called by the Chair or by written request of any two members of the Bboard. The Board endeavors to hold meetings in different geographic locations throughout the state when possible as a convenience to the public and licensees. To enhance opportunities for public participation, web-based teleconference is offered at all meetings, when available.

Board Member Attendance at Board Meetings

Board members must attend each meeting of the Board. Meeting dates are approved by the Board at the last Board meeting of the calendar year.

If a member is unable to attend ~~he/she is~~ they are asked to contact the Board Chair and the Executive Officer and provide a reason ask to be excused from the meeting ~~for a specific reason.~~

Quorum

Five Board mMembers constitute a quorum of the Board for the transaction of business. Either having members physically in attendance or by teleconference, with proper notice, can meet the requirement for a quorum. The concurrence of a majority of those members of the Board present and voting at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items (~~GC~~ Government Code (GC) § 11125 et seq.)

Any Board mMembers may submit items for a Board Meeting agenda to the Board Chair with a copy to the Executive Officer ~~three to four weeks~~ six to eight weeks prior to the meeting. Members may also recommend agenda items for a future meeting agenda during ~~the~~ meeting under Future Agenda Items. A motion and vote may be taken but is not necessary. The Board Chair will confer with the Executive Officer and Board Legal Counsel regarding the future agenda items. It will be a standing item to review the status of future agenda items that have been recommend by Board mMembers that may not have made the current Board Meeting agenda.

Staff maintains a list of action items to research and bring back to a future Board Meeting. Staff may recommend the issue be referred to a Committee first to be vetted. Prior to items being placed on the agenda, staff conducts research to determine if an item is appropriate for Board discussion. This research starts with identifying how the item meets our mandate to protect the health and safety of California consumers. In addition, staff researches potential benefits to the State, identifies the current professional trends and what other states are doing. For items requiring legislative and/or regulatory changes, staff identifies potential concerns by anticipating who would be in support of or in opposition to the bill/rulemaking.

No item shall be added to the agenda subsequent to the provision of the meeting notice.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Items not included on the agenda may not be discussed

Notice of Meetings (~~Government Code Section~~ GC § 11120 et seq.)

The minutes are a summary, not a transcript, of each Board Meeting. They shall be prepared by Board staff and submitted for review by Board mMembers before the next Board Meeting. Board Minutes shall be approved at the next scheduled meeting of the

Board. When approved, the minutes shall serve as the official record of the meeting and be made available to the public on the Board's website.

Recording ~~(Board Policy)~~ of Meetings

The meetings ~~may be~~ are recorded and available to the public on the Board's website. ~~if determined necessary for staff purposes. Recordings may be disposed of upon Board approval of the minutes.~~

Use of Electronic Devices During Meetings

Members should not text or email each other during an open meeting on any matter within the Board's jurisdiction.

Use of electronic devices, including laptops, during the meetings is solely limited to access the Board Meeting materials that are in electronic format or to participate in web-based teleconference meetings.

Making a Motion at Meetings

When new business is to be introduced or a decision or action is to be proposed, a Board ~~m~~Members should make a motion to introduce a new piece of business or to propose a decision or action. All motions must reflect the content of the meeting's agenda – the Board cannot act on business that is not listed on the agenda.

Upon making a motion, Board ~~m~~Members must speak slowly and clearly as the motion is being ~~voice and/or video~~ recorded. Members who opt to second a motion simply say, "I second the motion," "I second it," or "Second." ~~must remember to repeat the motion in question.~~ Additionally, it is important to remember that once a motion has been made and seconded, it is inappropriate to make a second motion until the initial one has been resolved or withdrawn.

The basic process of a motion is as follows:

1. • An agenda item has been thoroughly discussed and reviewed. If it is a new piece of business, see step 2.
2. • The Board Chair opens a forum for a ~~m~~Member to make a motion to adopt or reject the discussed item.
3. • A ~~m~~Member makes a motion before the Board.
4. • Another ~~m~~Member seconds this motion.
5. • ~~The Board Chair puts forth the motion to a vote.~~ The Board Chair solicits additional comment from the Board and then the public.

6. • ~~The Board Chair solicits additional comment from the Board and then the public. The Board Chair puts forth the motion to a vote.~~
- ~~If it is a voice vote, those in favor of the motions say “aye” and those opposed say “no”. Members may also vote to “abstain”, meaning a non-vote or “recuse” meaning to disqualify from participation in a decision on grounds such as prejudice or personal involvement. Recusal is the proper response to a conflict of interest.~~
7. • ~~The vote of each Board mMember shall be recorded via roll call rollcall vote. Members in favor of the motions say “aye” and say “no” if they oppose. Members may also vote to “abstain”, meaning a non-vote. No vote will be recorded for a member who has been “recused” for a particular item, meaning to disqualify from participation in a decision on grounds such as prejudice or personal involvement. Recusal is the proper response to a conflict of interest. A member who is recused for an item must leave the room and not participate in discussion or voting on the item.~~
8. • ~~Upon completion of the voting, the Chair will announce the result of the vote will be announced (e.g. “the ayes have it and the motion is adopted” or “the no’s have it and the motion fails”).~~

CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES

Travel Approval (~~DCA Memorandum 96-01~~DCA Travel Guide)

Board ~~m~~Members shall have ~~Board Chair~~ the Executive Officer's approval for travel except for regularly scheduled Board and Committee Meetings to which the Board ~~m~~Member is assigned.

Travel Arrangements (~~Board Policy~~)

Board staff will assist Board members in making travel arrangements for each Board ~~m~~Member as required. These arrangements will be made through the appropriate State employee systems for booking travel.

Out-of-State Travel (State Administrative Manual § 700 et seq.)

For out-of-state travel, Board ~~m~~Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office and the Department of Consumer Affairs.

Travel Claims (State Administrative Manual § 700 et seq. and DCA Travel Guidelines)

Rules governing reimbursement of travel expenses for Board ~~m~~Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. Board ~~m~~Members will be provided with completed travel claim forms submitted on their behalf. ~~Board staff~~ The Executive Officer's Assistant maintains these forms and completes them as needed. It is advisable for Board ~~m~~Members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board ~~m~~Members shall follow the procedures contained in DCA Travel Guide provided as Attachment B Departmental Memoranda ~~which are periodically disseminated by the Director and are provided to Board Members.~~

Salary Per Diem (BPC § 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board ~~m~~Members is regulated by BPC § 103.

In relevant part, this section provides for the payment of salary per diem for Board ~~m~~Members "for each day actually spent in the discharge of official duties," and provides

that the Board ~~m~~Members “shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”

For Board -specified work, Board ~~m~~Members will be compensated for time spent performing work authorized by the Board Chair. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and committee work. That work ~~does not~~ includes review of enforcement cases to submit a ballot vote on a Proposed Decision, Proposed Stipulation, and Default Decision, preparation time for Board or Committee Meetings. ~~Board ~~m~~Members cannot claim salary per diem for~~ and time spent traveling to and from a Board or Committee Meeting.

CHAPTER 4. SELECTION OF OFFICERS AND COMMITTEES

Officers of the Board

The Board shall elect from its members a Chair, ~~and~~ Vice-Chair, to hold office for one year or until their successors are duly elected and qualified.

Roles and Responsibilities of Board Officers

Chair

- **Board Business:** Conducts the Board's business in a professional manner and with appropriate transparency, adhering to the highest ethical standards. Shall use Roberts Rules of Order as a guide and ~~shall use~~ the Bagley-Keene Open Meetings Act during all Board Meetings.
- **Board Vote:** Conducts ~~roll call~~ rollcall vote or delegates it to a staff.
- **Board Affairs:** Ensures that Board matters are handled properly, including preparation of pre-meeting materials, committee functioning, and orientation of new Board mMembers.
- **Governance:** Ensures the prevalence of Board governance policies and practices, acting as a representative of the Board as a whole.
- **Board Meeting Agendas:** Develops agendas for meetings with the Executive Officer and Legal Counsel. Presides at Board Meetings.
- **Executive Officer:** Establishes search and selection committee for hiring an Executive Officer. The committee will work with the DCA on the search. Convenes Board discussions for the annual performance appraisal of the evaluating Executive Officer each fiscal calendar year.
- **Board Committees:** Seeks volunteers for committees and coordinates individual Board mMembers assignments. Makes sure each committee has a chairperson, and stays in touch with chairpersons to be sure that their work is carried out. Obtains a debrief from each Board Committee chairperson ~~and reports committee progress and actions to Board at the~~ next Board Meeting.
- **Yearly Board Officers Elections:** ~~Solicits nominees~~ Notify members of Board Officers election not less than 45 days prior to the last Board meeting of the calendar year open elections at Board Meeting.
- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization (~~as does the Executive Officer and Public Outreach Committee~~).

- Sunset: Develops, along with the Vice Chair and staff, for the Board's review the Board's Sunset Review Report to the California Legislature.

Vice Chair

- **Board Business**: Performs the duties and responsibilities of the Chair when the Chair is absent.
- **Board Budget**: Serves as the Board's budget liaison with staff and shall may assist staff in the monitoring and reporting of the budget to the Board. Review budget change orders proposals with staff.
- **Strategic Plan**: Serves as the Board's strategic planning liaison with staff and shall may assist staff in the monitoring and reporting of the strategic plan to the Board.
- **Board Member On-Boarding**: Welcomes new members to the Board, ~~and its~~ available to answer questions, ~~and understand role and responsibilities~~. May participate in on-Boarding meeting with staff and new members.
- Sunset: Develops, with the Chair and staff, for the Board's review, the Board's Sunset Review Report to the California Legislature.

Election of Board Officers

The Board elects ~~the~~ Board Officers at the last meeting of the ~~fiscal~~ calendar year. Officers serve a term of one-year, beginning ~~July~~ January 1 of the next ~~fiscal~~ calendar year. All officers may be elected on one motion ~~or ballot~~ as a slate of officers unless more than one Board ~~m~~Member is running per office. An officer may be re-elected and serve for more than one term.

Board Officer Vacancies

If an office becomes vacant during the year, an election shall be held at the next Board meeting. If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair until the election for Chair is held. Elected officers shall then serve the remainder of the term.

Committees and Creation of Committees (~~BPC 2531.05 and Board Policy~~)

~~BPC 2531.05 creates and requires The Hearing Aid Dispensing Committee. The Committee shall consist of two licensed audiologists; two licensed hearing aid dispensers; one public member; and one public member who is a licensed physician and surgeon and who is board certified in otolaryngology. This Committee is tasked with~~

~~reviewing, researching, and advising the full Board on the practice of fitting or selling hearing aids.~~

The Chair shall establish committees, whether standing or special, as necessary.

The following committees have been created by the Board, and consist of Board mMembers, that meet on a regular basis, for the purpose of discussing specific issues in depth, and providing feedback and any recommendations to the full Board:

- Hearing Aid Dispensing Committee – Provides policy and regulatory guidance with respect to HAD practices and recommends scope of practice amendments for consideration.
- Audiology Practice Committee – Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.
- Speech-Language Pathology Practice Committee – Addresses changes in practice patterns and recommends position statements and/or scope of practice amendments for consideration.
- Sunset Review Ad Hoc Committee – Develop for the Board's review the Board's Sunset Review Report to the California Legislature. See Attachment C for the Sunset Review Report.
- 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.
- 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

Committee Appointments

The composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair and the Executive Officer. In determining the composition of each committee, the Chair shall solicit interest from the Board mMembers during a public meeting. The Chair shall strive to give each Board mMember an opportunity to serve on at least one committee. Appointment of non-Board mMembers to a committee is subject to the approval of the Board.

CHAPTER 5. BOARD ADMINISTRATION AND STAFF

Board Administration

Board mMembers should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board mMembers to become involved in the details of program delivery. Strategies for the day-to-day management of programs, operations and staff shall be the responsibility of the Executive Officer. Board mMembers should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

Board Staff

The Board's essential functions are comprised of ensuring speech-language pathologists, audiologist, and hearing aid dispensers licensed in the State of California meet professional licensure and examination requirements and follow legal, legislative and regulatory mandates. The Board is also responsible for enforcement of State of California requirements and regulations as they pertain to licensure and the professions.

Appointment of Executive Officer

The Board shall employ an Executive Officer and other necessary assistance in the carrying out of the provisions of the Board's Practice Act.

The Executive Officer serves at the pleasure of the Board mMembers who provide direction to the Executive Officer in the areas of program administration, budget, strategic planning, and coordination of meetings. The Executive Officer's salary is based on pay scales set by California Department of Human Resources (Cal HR). The Executive Officer shall be entitled to traveling and other necessary expenses in the performance of ~~his/her~~ their duties as approved by the Board.

Executive Officer Performance Appraisal Evaluation

Board mMembers shall conduct an appraisal of the performance ~~evaluate the performance~~ of the Executive Officer on an annual basis using the forms created by DCA Office of Human Resources.

Legal Counsel

The Board's ~~legal counsel~~ Legal Counsel provides "in-house" counsel. Opinions and counsel provided by the Board's Legal Counsel is protected from public disclosure by the attorney-client privilege.

Strategic Planning

The Board should update the strategic plan periodically every three to five years, with the option to use a facilitator to conduct the plan update. At the end of the ~~fiscal~~ calendar year, an annual review conducted by the Board will evaluate the progress toward strategic goal achievement as stated in the strategic plan and identify any areas that may require amending. See Attachment D for the Strategic Plan.

Legislation

In the event that time constraints preclude Board action on legislation, the Board delegates to the Executive Officer and the Board Chair and Vice Chair the authority to take action on legislation that would affect the Board. The Board shall be notified of such action as soon as possible.

CHAPTER 6. OTHER POLICIES AND PROCEDURES

Board Member Orientation and Training (BPC § 453, GC § 11121.9, GC § 12950.1)

Newly appointed and re-appointed members shall complete a training and orientation program provided by DCA within one year of assuming office. This one-day class will discuss Board mMember obligations and responsibilities.

~~Newly appointed and re-appointed Board Members shall complete provided by the Department of Consumer Affairs (complete within one (1) year of assuming office).~~

~~(GC § 11121.9, GC § 12950.1)~~

All Board mMembers shall complete all required training and submit compliance documentation, including but not limited to, the documents specified below:

- Board Member Orientation Training (BMOT) provided by the DCA (complete within one (1) year of assuming office).
- Ethics ~~Orientation~~ Training provided by the Office of the Attorney General (complete within first six (6) months of assuming office) and every two (2) years thereafter).
- Conflict of Interest Filing, Form 700 – Statement of Economic Interests, provided by the DCA (submit annually) and within thirty (30) days of assuming office, every April 1st thereafter, and within thirty (30) days of leaving the Board.
- Sexual Harassment Prevention Training provided by the DCA (complete within ~~first six (6) months~~ thirty (30) days of assuming office) and every two (2) years thereafter on odd numbered years).
- Defensive Driver Training provided by Department of General Services (complete once every four years).

Upon assuming office, members will also receive a copy of the Bagley-Keene Open Meetings Act, which lists public meeting laws that provide the guidelines for Board Meetings (see Attachment A). The current version of this Act can also be found at the following: https://www.dca.ca.gov/about_us/board_members/resources.shtml

Additional Board mMember resources can be found at ~~www.dcaBoard-members.ca.gov~~ https://www.dca.ca.gov/about_us/board_members/.

Business cards can ~~will~~ be provided to each Board mMember with the Board's name, address, telephone ~~and fax number~~, and website address. A Board mMember's business address, telephone ~~and fax number~~, and email address may be listed on the card at the member's request.

Board Member Disciplinary Actions

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner. The Chair of the Board shall sit as chair of the hearing unless the censure involves the Chair's own actions, in which case the Vice Chair of the Board shall sit as chair. In accordance with the Bagley-Keene Open Public Meetings Act, the censure hearing shall be conducted in open session.

Removal of Board Members (BPC §§ 106 and 106.5)

The Governor has the power to remove from office at any time any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor may also remove from office a Board mMember who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of Board Members (GC § 1750)

In the event that it becomes necessary for a Board mMember to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the director of DCA, the Board Chair, and the Executive Officer.

Conflict of Interest (GC § 87100)

No Board mMember may make, participate in making, or in any way attempt to use ~~his or her~~ their official position to influence a governmental decision in which ~~he or she~~ knows or has they know or have reason to know ~~he or she has~~ they have a financial interest. Any Board mMember who has a financial interest shall disqualify ~~him or herself~~ themselves from making or attempting to use ~~his or her~~ their official position to influence the decision. Any Board mMember who ~~feels he or she is~~ feel believes they are entering into a situation where there is a potential for a conflict of interest should immediately consult ~~the Executive Officer or the Board's legal counsel~~ Legal Counsel.

Contact with Candidates, Applicants and Licensees

Board mMembers should not intervene on behalf of a candidate or an applicant for licensure for any reason. Nor should they intervene on behalf of a licensee. All inquiries regarding licensees, applications and enforcement matters should be referred to the Executive Officer.

Communication with Other Organizations and Individuals

Any and all representations made on behalf of the Board ~~or Board Policy~~ must be made by the Executive Officer or Board Chair, unless approved otherwise. All correspondence shall be issued on the Board's standard letterhead or email and will be created and disseminated by the Executive Officer's ~~Office~~, or their designee.

Gifts from Candidates

Gifts of any kind to Board mMembers or the staff from candidates for licensure with the Board is not permitted and will be promptly returned unless they are perishable goods that cannot effectively be returned to the sender.

Request for Records Access

Board mMember may not access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Board's Office.

Ex Parte Communications (GC § 11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An ex parte communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of GC § 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board mMembers are prohibited from an ex parte communication with Board enforcement staff while a proceeding is pending. Occasionally an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board mMembers.

If the communication is written, the ~~person-Board member~~ should read only far enough to determine the nature of the communication. Once ~~he or she realizes~~ they realize it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board mMember receives a telephone call ~~form~~ from an applicant or licensee against whom an action is pending, ~~he or she~~ they should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the

case, ~~he or she~~ the person should be told that the Board ~~m~~Member will be required to recuse ~~him or herself~~ themselves from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board ~~m~~Member believes that ~~he or she has~~ they have received an unlawful ex parte communication, ~~he or she~~ they should contact the Board's ~~legal counsel~~ Legal Counsel for further guidance.

CHAPTER 7. COMPLAINT AND DISCIPLINARY PROCESS

The Board conducts disciplinary proceedings in accordance with the Administrative Procedure Act, GC § 11370, and those sections that follow. The Board conducts investigations and hearings pursuant to Government Code §§ 11180 through 11191. The Board also uses its Uniform Standards Related to Substance Abuse and Disciplinary Guidelines and Uniform Standards Related to Substance Abuse, once effective, as a guide when determining appropriate levels of discipline.

Disciplinary Options

The Board has two options available to impose discipline against a licensee. In cases in which the violations do not warrant the revocation of a license or terms and conditions of probation, a citation and fine is issued. In cases in which the violations are egregious and warrant revocation of the license, the Board forwards the matter to the Attorney General's (AG) office to pursue formal disciplinary action. Each decision is made in consultation with the Executive Officer.

Citation and Fine

A citation and fine issued to the licensee is considered an administrative disciplinary action and is subject to public disclosure. The fines range from \$100 to a maximum of \$2,500 for each investigation. In specified circumstances, a fine up to a maximum of \$5,000 may be issued. All citation and fines issued include an order of abatement in which the licensee must provide information or documentation that the violation has been corrected. The licensee is afforded the opportunity to appeal the issuance of the citation and fine.

Formal Disciplinary Actions

If after the completion of an investigation, evidence substantiates gross negligence, incompetence, or unprofessional conduct, the enforcement analyst, in consultation with the Enforcement ~~Manager~~ Coordinator and Executive Officer, determines whether the case should be forwarded to the ~~AG's~~ Attorney General's Office for disciplinary action.

Attorney General Role

The Attorney General's Office is responsible for prosecuting the administrative case against licensees and registrants (respondents). A respondent might be suspended from practice, ~~or have her or his~~ their license revoked, or be placed on terms and conditions of probation, or an applicant may be denied licensure or licensed with probation. A Deputy Attorney General (DAG) in the ~~AG's~~ Attorney General's Office Licensing Unit is assigned to these cases. The DAGs work with the Board's enforcement staff to determine whether the necessary evidence exists for a successful prosecution. The burden of proof in these matters is clear and convincing evidence. Based on the evidence, the DAG makes recommendations regarding prosecution.

Although the Board generally takes the advice of counsel, the Board has the discretion to take other action.

Filing Formal Charges

Formal charges are almost always filed in cases in which the health and safety of the consumer has been compromised, and in which supporting evidence can be established. The Board's Executive Officer determines whether to file formal charges for any violation of the Board's licensing laws. These formal charges are referred to as pleadings. In each pleading, the Executive Officer of the Board is the complainant.

Pleadings are:

- ~~A.~~— Accusation: A written statement of charges against the holder of a license or privilege, to revoke, suspend or limit the license, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations.
- ~~B.~~— Statement of Issues: A written statement of the reasons for denial of an application for a license or privilege, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations.
- ~~C.~~— Petition for reinstatement or reduction of penalty: A person whose license was revoked, suspended or placed on probation can petition for that license to be reinstated, to have the penalty reduced, or for the probation to be terminated.

Many boards have specific ~~or~~ regulations relating to these petitions. Hearings on these petitions usually take place before the Board itself at a scheduled board meeting, with an Administrative Law Judge (ALJ) presiding. The Board usually goes into ~~executive~~closed session after the hearing to deliberate and decide the outcome. The ALJ usually prepares the Decision, for signature of the Board Chair. Some boards prefer to have the ALJ, sitting alone, hear petitions and render a proposed decision to the board. This may also happen when the Board does not have a quorum at a board meeting.

Actions Preceding an Administrative Hearing

Once an Accusation or Statement of Issues has been filed and the respondent has been served, the respondent may file a notice of defense and request an administrative hearing. All hearings are held before an ALJ from the Office of Administrative Hearings (OAH).

During this process, several outcomes may occur. The respondent may fail to respond to the accusation and file a notice of defense. The respondent may wish to settle the manner prior to a formal hearing. The case may proceed to a formal hearing. At any stage of this process, the Board may withdraw the Accusation or Statement of Issues for any reason or enter into a stipulated settlement with the respondent. If the

respondent fails to respond within fifteen (15) days of receiving the accusation or statement of issues, a Default Decision is issued. Defaults result in the revocation or denial of a license.

Stipulation (~~Negotiated Settlement~~)

The licensee/applicant and ~~agency~~ Board may decide to settle at any time during the administrative process. Usually, stipulation, or negotiated settlements, are entered into before an administrative hearing is held to avoid the expense of the hearing. The settlement is reduced to a written stipulation and order which sets forth the settlement terms and proposed disciplinary order. The written stipulation and order is forwarded to the Board for its consideration.

During the settlement process the DAG has been advised by the Executive Officer or through enforcement staff regarding acceptable terms. The DAG may advocate before the Board for approval of the settlement. The Board may accept the settlement and issue its decision and order based on the settlement. If the Board rejects the settlement, the case will return to the disciplinary process. ~~A~~ a new settlement may be submitted to the Board at a later time, or the case may proceed to an administrative hearing before an ALJ.

Stipulations prior to an administrative hearing eliminate the six months to one-year delay that may result from attempting to schedule a mutually agreeable hearing date. The public is often better served because the resolution time is reduced and lengthy appeals are avoided, and the Board and respondent save time and money. Further, a licensee on probation is monitored closely by the Board.

Determining Settlement Terms

Stipulations are negotiated and drafted by the DAG, the respondent, and the respondent's legal counsel. Stipulation terms are given to the DAG representing the Board by the enforcement staff with approval of the Executive Officer, utilizing the Board's Disciplinary Guidelines. ~~In negotiating a stipulation, the DAG works closely with the Board's Executive Officer to arrive at a stipulation that will be acceptable to the Board.~~

~~The following factors are considered when settlement terms are proposed.~~

- ~~• Nature and severity of the act(s), offense(s), or crime(s),~~
- ~~• Actual or potential harm to any consumer or client,~~
- ~~• Prior disciplinary record,~~
- ~~• Number and/or variety of current violations,~~

- ~~Mitigation evidence,~~
- ~~Rehabilitation evidence,~~
- ~~In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation,~~
- ~~Overall criminal record,~~
- ~~Time elapsed since the act(s) or offense(s) occurred,~~
- ~~Whether the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties, and~~
- ~~Recognition by respondent of her or his wrongdoing and demonstration of corrective action to prevent recurrence.~~

The ~~D~~isciplinary ~~G~~uidelines were established in an effort to provide consistency in determining penalties. Enforcement staff considers the disciplinary guidelines when determining whether to seek revocation, suspension, and/or probation of a license. Board ~~m~~Members use them when considering cases during hearings. The guidelines are updated when necessary and are distributed to DAGs and ALJs who work on cases with the Board. Disciplinary Guidelines can be found in the Law Book provided as Attachment E.

In negotiating a stipulation, the DAG works closely with the Board's Executive Officer and Enforcement Coordinator to arrive at a stipulation that will be acceptable to the Board. Pre-hearing conferences are a more formal method for developing a stipulated agreement. These hearings involve the ~~E~~O Executive Officer and/or the Enforcement Coordinator, the respondent, respondent's attorney, and an ALJ.

Office of Administrative Hearings (~~formal hearing~~)

The Office of Administrative Hearings (OAH) consists of two divisions located in six regional offices at major population centers throughout the State. The General Jurisdiction Division conducts hearings, mediations, and settlement conferences for more than 1,000 state, local, and county agencies. This is the division that conducts the hearings for the Board. The Special Education Division conducts special education due process hearings and mediations for school districts and parents of children with special education needs throughout the State.

The ALJ presides over the hearing; an attorney (DAG) represents the Board and presents the case; and the respondent or the respondent's representative/attorney presents its case. Testimony and evidence ~~is~~ are presented and there is a transcript of the proceedings. Upon the conclusion of the administrative hearing, the ALJ will consider all of the testimony and evidence and will prepare a Proposed Decision. Once

the hearing is finished, the ALJ has thirty (30) days to prepare the proposed decision and send it to the Board. The Proposed Decision is submitted to the Board for consideration. Board Review of Stipulations, Proposed Decisions, and Default Decisions.

The Board mMembers review and vote on each case where the matter is either settled prior to hearing or the ALJ issues a proposed decision. In all cases, the Board mMember has the option to adopt, ~~reject~~ non-adopt, or hold for discussion (adopt, reject, or modify the decision).

Board Review of Stipulations, Proposed Decisions, and Default Decisions

The Board mMembers review and vote on each case where the matter is either settled prior to hearing or the ALJ issues a proposed decision. In all cases, the Board mMember has the option to adopt, ~~reject~~ non-adopt or hold for discussion (adopt, reject, or modify the decision).

Stipulations – Negotiated Settlements

- **Adopt** – If the decision of the Board is to adopt the terms proposed in the stipulation, the decision becomes effective within thirty (30) days and the respondent is notified.
- **~~Reject-Non-Adopt~~** – If the Board decides to ~~reject~~ not-adopt the stipulation, the respondent is notified, and the matter resumes the process for a formal administrative hearing before an ALJ. A new settlement may be submitted to the Board at a later date.
- **Hold for Discussion** – A Board mMember may be unable to decide due to concerns of or the desire for further clarification. (Note: A Board mMember may seek procedural clarification from the Board's ~~legal counsel~~ Legal Counsel.) In this situation, the Board mMember may choose to hold the case for discussion. If one (1) Board mMember votes to hold the case for discussion, the case is discussed in the next available meeting during a closed session.

Proposed Decisions – Decision from the ALJ following a formal hearing:

- **Adopt** – If the decision of the Board is to adopt the proposed decision, the decision becomes effective within thirty (30) days and the respondent is notified.
- **Reduce** – The Board may reduce or mitigate the proposed penalty and adopt the rest of the proposed decision.
- **~~Non-Adopt/Reject~~** – If the Board decides to ~~reject~~ not-adopt the proposed decision, the respondent is notified. Transcripts from the administrative hearing

are requested. Board mMembers review the transcripts and evidence and meet during a closed session to write their decision.

- Make technical or other minor changes – If the Board decides that there are technical changes or minor changes that do not affect the factual or legal base of the decision, they may make those changes and adopt the rest of the proposed decision.

The Board then has one hundred (100) days to take action to either adopt or ~~reject non-~~adopt. If no action is taken within one hundred (100) days the proposed decision becomes effective by operation of law ~~law~~.

Mail Ballot Procedure

Proposed Decisions, Proposed Stipulations, and Default Decisions are usually presented to the Board for its consideration by ~~mail~~ ballot. ~~Mail b~~Ballot is done by electronic mail. ~~Mail b~~Ballot packet materials are confidential and include the following:

- Memo from enforcement staff listing the cases for review and decision
- Ballot
- Legal documents (Proposed Decision, Proposed Stipulation or Default Decision, and Accusation or Statement of Issues)
- Memo from the assigned Deputy Attorney General (Proposed Stipulated Settlement cases only)

Deliberation and decision-making should be done independently and confidentially by each Board mMember. ~~Where the vote is done by mail, v~~ Voting members may not communicate with each other, and may not contact the ~~Deputy Attorney General~~ DAG, the respondent, anyone representing the respondent, any witnesses, the “complainant”, the ALJ, or anyone else associated with the case.

Additionally, Board mMembers should not discuss pending cases with ~~agency~~ staff, except as to questions of procedure or to ask whether additional information is available, and whether the ~~agency~~ Board may properly consider such information. If a Board mMember has any procedural questions not specific to evidence, or any question specifically related to the cases, the questions should be directed to the Board’s DCA Legal Counsel.

Completed ~~mail~~ ballots are due at the Board office no later than the due date indicated in the ~~mail~~ ballot package. The due dates are established in accordance with the timelines indicated in Administrative Procedure Act. It may be your vote that is deciding vote in the outcome of a case. Therefore, it is critical that Board mMembers return their votes timely.

~~Mail~~ Ballot materials should be retained until notification by enforcement staff that the cases have been adopted. Once a decision is final, the ~~mail~~ ballot packet materials must be confidentially destroyed.

Mail Ballot Vote Definitions

- ~~A.~~ A. Adopt/Accept: A vote to adopt the proposed action means that you agree with the action as written.
- ~~B.~~ B. ~~Non-Adopt/Reject~~: A vote to reject ~~not adopt~~ the proposed action means that you disagree with one or more portions of the proposed action and do not want it adopted as the Board's decision. However, a majority vote to adopt will prevail over a minority vote to reject ~~not adopt~~.
- ~~C.~~ C. Hold for Discussion: A vote to hold for discussion may be made if you wish to have some part of the action changed in some way (increase penalty, reduce penalty, etc.) For example, you may believe an additional or a different term or condition of probation should be added, or that a period of suspension should be longer. At least ~~TWO votes~~ one (1) vote in this category must be received to stop the process until the Board can consider the case in closed session at the board meeting.

Disqualification

With some limited exception, a Board ~~m~~member cannot decide a case if that Board ~~m~~member investigated, prosecuted or advocated in the case or is subject to the authority of someone who investigated, prosecuted or advocated in the case. A Board ~~m~~member may be disqualified for bias, prejudice, financial interest or other interest in the case.

GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT

(Includes Amendments through January 1, 2017)

Prepared by:

**DIVISION OF LEGAL AFFAIRS
Department of Consumer Affairs
1625 N. Market Blvd., Suite S 309
Sacramento, CA 95834
(916) 574-8220**

This document may be copied if all of the following conditions are met: the meaning of the copied text is not changed; credit is given to the Department of Consumer Affairs; and all copies are distributed free of charge.

BAGLEY-KEEN OPEN MEETING ACT

Table of Contents

<u>Subject</u>	<u>Page(s)</u>
I. Public Policy to Conduct People’s Business Openly	1
II. Board, Committee, Subcommittee, Task Force Meetings	2-4
A. Definition of a “Meeting”	2
B. Exemptions from Definition of Meeting	2-3
C. Board and Committee Meetings	3-4
III. Types of Meetings; Purpose; Notice; Other Requirements	4-11
A. Regularly Scheduled Meetings	4-8
1. Who May Hold a Regularly Scheduled Meeting	4
2. Purposes for Which the Meeting May be Held	4
3. Notice Requirements for a Regularly Scheduled Meeting	5-7
a. Board Meetings	5-7
b. Committee, Subcommittee or Task Force Meetings	8
4. Specific Requirements for Regularly-Scheduled Meeting	8
5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting	8
B. “Special” Meetings	8-10
1. Who May Hold a Special Meeting	8
2. Purpose for Which a Special Meeting May be Held	8-9
3. Notice Requirements for a Special Meeting	9-10
4. Specific Requirements During Special Meetings	10
5. Specific Prohibitions on Holding a Special Meeting	10
C. “Emergency” Meetings	10-11
1. Who May Hold an Emergency Meeting	10
2. Purposes for Which an Emergency Meeting May be Held	10
3. Notice Requirements for an Emergency Meeting	11
4. Specific Requirements for an Emergency Meeting	11
5. Specific Prohibitions on Holding an Emergency Meeting	11
IV. Closed Sessions	11-18
A. Purposes for Which Closed Session Can be Held	11-16
1. Personnel Matters	12
2. Examination Matters	12
3. Matters Affecting Individual Privacy	13
4. Administrative Disciplinary Matters	13-14
5. Board of Accountancy Matters	14
6. Pending Litigation	14
7. Response to Confidential Final Draft Audit Report	14
8. Threat of Criminal or Terrorist Activity	15
9. Advisory Bodies/Committees May Meet in Closed Session	15
10. Open Session Otherwise Required	15

B. Notice and Reporting Requirements for Closed Sessions	15-16
1. Notice of Closed Session	15-16
2. Reporting After A Closed Session	16
C. Other Procedural Requirements for Closed Sessions	16-17
V. Meeting by Teleconferencing	17-18
VI. Deliberations and Voting	19-21
A. Seriatim Calls to Individual Agency Members Prohibited	19
B. E-Email Prohibition	19-20
C. Secret Ballot Prohibited	20
D. Voting by Proxy Prohibited	20
E. Use of Electronic Devices During Meeting	20
F. Voting by Mail on Administrative Disciplinary Matters	21
G. Recording and Reporting Votes	21-22
VII. Miscellaneous Provisions	21-23
A. Conforming Board Member's Conduct	21
B. Providing Open Meeting Act to New Board Members	21
C. Prohibition on Placing Conditions on Public's Attendance	21-22
1. Sign-in	21
2. Discrimination in Admittance to Meeting Facility	22
3. Access for the Disabled	22
4. Charging a Fee or Requiring a Purchase for Access	22
D. Agency Recording of the Proceedings	22
E. Public's Right to Record the Proceedings	22
F. Media Broadcast of the Proceedings	22
G. Webcasting	22
H. Taking Agenda Items Out of Order	23
I. Opportunity for Public Comment at Meetings	23
VIII. Disclosure of Documents	24
A. Documents Distributed Prior to the Meeting	24
B. Documents Distributed During the Meeting	24
C. Charging a Fee for Public Documents	24
IX. Penalties	24-25

GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT (Includes Amendments through January 1, 2017)

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that “Members of the board who are not members of this committee may be attending the meeting only as observers.”

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of “state body” in Section 11121(c).”

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a “special” meeting, or an “emergency” meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board’s licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

”(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider ‘pending litigation’ as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 “would impose a substantial hardship on the state body or where immediate action is required to protect the public interest.” (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency’s meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

“(2) Crippling disaster that severely impairs public health or safety, or both.” (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * A copy of the rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

1. Personnel Matters

A board may meet in closed session to ". . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

“Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.”

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

“A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed.” (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that “We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed.” (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

"(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members “to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency.” (Emphasis added.) (§11122.5(b))

B. E-Mail Prohibition

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

G. Recording and Reporting Votes

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

“While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.”

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that “All times indicated and the order of business are approximate and subject to change,” to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that “Items scheduled for a particular day may be moved to an earlier day to facilitate the board’s business.” Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

11120. Public policy; legislative finding and declaration; citation of article

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1980, c. 1284, p. 4333, § 4; Stats. 1981, c. 968, p. 3683, § 4.)

11121. State body defined

As used in this article, "state body" means each of the following:

(a) Every state board, or commission,

or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1980, c. 515, § 1; Stats.1981, c. 968, p. 3683, § 5; Stats.1984, c. 193, § 38. Amended by Stats.1996, c. 1023 (S.B.1497), § 88, eff. Sept. 29, 1996; Stats.1996, c. 1064 (A.B.3351), § 783.1,

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

operative July 1, 1997; Stats.2001, c. 243 (A.B.192), § 1; Amended Stats. 2003 ch 62 § 117 (SB 600), Stats. 2015, c. 537 (S.B. 387), § 22, eff. January 1, 2016.)

(Added by Stats.2001, c. 243 (A.B.192), § 2. Amended by Stats. 2008, c. 344 (S.B. 1145), § 2, eff. Sept. 26, 2008; Stats. 2015, c. 537 (S.B. 387), § 23, eff. January 1, 2016.)

11121.1. State body; exclusions

As used in this article, "state body" does not include any of the following:

(a) Except as provided in subdivision (e) of Section 11121, state agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

11121.2. Repealed by Stats. 2001, c. 243 (A.B.192), § 3

The repealed section, added by Stats.1981, c. 968, p. 3684, § 5.2, provided the additional definition of "state body" as a multimember body with authority of state body.

§ 11121.5. Repealed by Stats.1984, c. 1158, § 3

The repealed section, added by Stats.1994, c. 1179, § 1, amended by Stats.1981, c. 968, § 5.3; Stats.1983, c. 143, § 186, Stats.1983, c. 101, § 60, related to the treatment of state college and university student body organizations as state agencies. Similar provisions were added at Education Code § 89920 et. seq.

11121.7. Repealed by Stats. 2001, c. 243 (A.B.192), § 4

The repealed section, added by Stats.1980, c. 1284, p. 4333, § 5, amended by Stats.1981, c. 968, p. 3685, § 6, related to representatives of the state body.

11121.8. Repealed by Stats. 2001, c. 243 (A.B.192), § 5

The repealed section, added by

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

Stats.1981, c. 968, p. 3684, § 7, related to advisory bodies.

11121.9. Provision of copy of article to members of state body

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

(Added by Stats.1980, c. 1284, p. 4334, § 6.
Amended by Stats.1981, c. 714, p. 2659, § 175;
Stats.1981, c. 968, p. 3685, § 7.1.)

11121.95. Appointees or elected officials not yet in office; conformity of conduct to article requirements

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats.1997, c. 949 (S.B.95), § 1.)

11122. Action taken

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity

upon a motion, proposal, resolution, order or similar action.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 7.3.)

11122.5. Meeting defined; series of communications to discuss, deliberate, or take action prohibited; exceptions

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b)(1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2)(A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and

noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Added by Stats.2001, c. 243 (A.B.192), § 6.
Amended by Stats.2009, c. 150 (A.B.1494), § 1.)

**11123. Meetings; attendance;
teleconference option**

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b)(1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state

body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 7.5;
Stats.1994, c. 1153 (A.B.3467), § 1; Stats.1997, c. 52 (A.B.1097), § 1; Stats.2001, c. 243 (A.B.192), § 7;
Stats.2014, c. 510 (A.B.2720), § 1, eff. Jan. 1, 2015.)

11123.1. State body meetings to meet protections and prohibitions of the Americans with Disabilities Act

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, c. 300 (A.B. 3035), § 1.)

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

11124. Conditions to attendance

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 8.)

11124.1. Audio or video recording of proceedings; inspection of state's recording; broadcast restrictions

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Added by Stats.1980, c. 1284, p. 4334, § 7.
Amended by Stats.1981, c. 968, p. 3685, § 9;
Stats.1997, c. 949 (S.B.95), § 2; Stats.2009, c. 88
(A.B.176), § 42.)

11125. Notice of meeting

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request, by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1973, c. 1126, p. 2291, § 1; Stats.1975, c. 708, p. 1695, § 1; Stats.1979, c. 284, § 1, eff. July 24, 1979; Stats.1981, c. 968, p. 3685, § 10. Amended by Stats.1997, c. 949 (S.B.95), § 3; Stats.1999, c. 393 (A.B.1234), § 1; Stats.2001, c. 243 (A.B.192), § 8; Stats. 2002, c. 300 (A.B. 3035), § 2.)

11125.1. Agendas and other writings distributed for discussion or consideration at public meetings; public records; Franchise Tax Board; inspection; availability on the Internet; closed sessions

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the American with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

(Added by Stats.1975, c. 959, p. 2238, § 4. Amended by Stats.1980, c. 1284, p. 4334, § 8; Stats.1981, c. 968, p. 3686, § 10.1. Amended by Stats.1997, c. 949 (S.B.95), § 4; Stats.2001, c. 670 (S.B.445), § 1; Stats. 2002, c. 300 (A.B. 3035), § 3.5.); Stats. 2005, c. 188 (A.B. 780), § 1.)

11125.2. Appointment, employment or dismissal of public employees; closed sessions; public report

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

(Added by Stats.1980, c. 1284, p. 4335, § 9. Amended by Stats.1981, c. 968, p. 3687, § 10.3.)

11125.3. Action on items of business not appearing on agenda; notice

(a) Notwithstanding Section 11125, a

state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

(Added by Stats.1994, c. 1153 (A.B.3467), § 2. Amended by Stats.2001, c. 243 (A.B.192), § 9.)

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

**11125.4. Special meetings;
authorized purposes; notice; required
finding of hardship or need to protect
public interest**

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

(Added by Stats.1997, c. 949 (S.B.95), § 5. Amended by Stats.1999, c. 393 (A.B.1234), § 2; Stats.2004, c. 576 (A.B.1827), § 1.; Stats. 2007, c. 92 (S.B. 519), § 1.)

11125.5. Emergency meetings

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

(Amended by Stats.1992, c. 1312 (A.B.2912), § 11, eff. Sept. 30, 1992; Stats.1997, c. 949 (S.B.95), § 6; Stats.1999, c. 393 (A.B.1234), § 3.)

**11125.6. Fish and Game
Commission; emergency meetings;
appeals of fishery closures or restrictions**

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a

finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Added by Stats.1998, c. 1052 (A.B.1241), S 21.)

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

11125.7. Agenda item discussion before state body; opportunity for public address; regulation by state body; freedom of expression; application of provisions

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations

limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c)(1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to closed sessions held pursuant to Section 11126.

(f) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(g) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

Board pursuant to Sections 13963 and 13963.1.

(h) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

(Added by Stats.1993, c. 1289 (S.B.367), § 2. Amended by Stats.1995, c. 938 (S.B.523), § 13, operative July 1, 1997; Stats.1997, c. 949 (S.B.95), § 7; Stats.2006, c. 538 (S.B.1852), § 248; Stats.2012, c. 551 (S.B.965), § 1.; Stats. 2016, c. 31 (S.B. 836), § 71, eff. June 27, 2016.)

11125.8. Hearings to consider crimes against minors or crimes of sexual assault or domestic violence; identification of applicant; disclosure of nature of hearing

(a) Notwithstanding Section 11131.5, in any hearing that the State California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

(Added by Stats.1997, c. 949 (S.B.95), § 9.; Amended by Stats. 2006, c. 538 (S.B. 1852, § 249; Stats. 2016, c. 31 (S.B. 836), § 72, eff. June 27, 2016.)

11125.9. Regional water quality control boards; compliance with notification guidelines

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

(Added by Stats.1997, c. 301 (A.B.116), § 1.)

§ 11126. Closed sessions.

(a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any

disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees,

or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7)(A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications

and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18)(A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular

or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e)(1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a

significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C)(i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

(commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding

the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters

relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1968, c. 1272, p. 2396, § 1; Stats.1970, c. 346, p. 741, § 5; Stats.1972, c. 431, p. 791, § 43; Stats.1972, c. 1010, p. 1872, § 63, eff. Aug. 17, 1972, operative July 1, 1972; Stats.1974, c. 1254, p. 2713, § 1; Stats.1974, c. 1539, p. 3525, § 1; Stats.1975, c. 197, p. 570, § 1; Stats.1975, c. 959, p. 2238, § 5; Stats.1977, c. 730, p. 2318, § 5, eff. Sept. 12, 1977; Stats.1980, c. 1197, p. 4043, § 1; Stats.1980, c. 1284, p. 4338, § 11; Stats.1981, c. 180, p. 1096, § 1; Stats.1981, c. 968, p. 3688, § 12; Stats.1982, c. 454, p. 1842, § 40; Stats.1983, c. 143, § 187; Stats.1984, c. 678, § 1; Stats.1984, c. 1284, § 4; Stats.1985, c. 186, § 1; Stats.1985, c. 1091, § 1; Stats.1986, c. 575, § 1; Stats.1987, c. 1320, § 2;

Stats.1988, c. 1448, § 29; Stats.1989, c. 177, § 2; Stats.1989, c. 882, § 2; Stats.1989, c. 1360, § 52; Stats.1989, c. 1427, § 1, eff. Oct. 2, 1989, operative Jan. 1, 1990; Stats.1991, c. 788 (A.B.1440), § 4; Stats.1992, c. 1050 (A.B.2987), § 17; Stats.1994, c. 26 (A.B.1807), § 230, eff. March 30, 1994; Stats.1994, c. 422 (A.B.2589), § 15.5, eff. Sept. 7, 1994; Stats.1994, c. 845 (S.B.1316), § 1; Stats.1995, c. 975 (A.B.265), § 3; Stats.1996, c. 1041 (A.B.3358), § 2; Stats.1997, c. 949 (S.B.95), § 8; Stats.1998, c. 210 (S.B.2008), § 1; Stats.1998, c. 972 (S.B.989), § 1; Stats.1999, c. 735 (S.B.366), § 9, eff. Oct. 10, 1999; Stats.2000, c. 1002 (S.B.1998), § 1; Stats.2000, c. 1055 (A.B.2889), § 30, eff. Sept. 30, 2000; Stats.2001, c. 21 (S.B.54), § 1, eff. June 25, 2001; Stats.2001, c. 243 (A.B.192), § 10; Stats.2002, c. 664 (A.B.3034), § 93.7; Stats.2002, c. 1113 (A.B.2072), § 1; Stats.2005, c. 288 (A.B.277), § 1; Stats.2007, c. 577 (A.B.1750), § 4, eff. Oct. 13, 2007; Stats.2008, c. 179 (S.B.1498), § 91; Stats.2008, c. 344 (S.B.1145), § 3, eff. Sept. 26, 2008; Stats.2010, c. 328 (S.B.1330), § 81; Stats.2010, c. 32 (A.B.1887), § 2, eff. June 29, 2010; Stats.2010, c. 618 (A.B.2791), § 124; Stats.2011, c. 357 (A.B.813), § 1; Stats.2013, c. 352 (A.B.1317), § 234, eff. Sept. 26, 2013, operative July 1, 2013.)

11126.1. Record of topics discussed and decisions made at closed sessions; availability

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

(Added by Stats.1980, c. 1284, p. 4340, § 12.
Amended by Stats.1981, c. 968, p. 3691, § 13.)

11126.2. Closed session; response to confidential final draft audit report; public release of report

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats.2004, c. 576 (A.B.1827), § 2.)

11126.3. Disclosure of nature of items to be discussed in closed session; scope of session; notice of meeting; announcement of pending litigation; unnecessary disclosures; disclosures at open session following closed session

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed

session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to

be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

(Added by Stats.1980, c. 1284, p. 4341, § 13. Amended by Stats.1981, c. 968, p. 3692, § 14; Stats.1987, c. 1320, § 3. Amended by Stats.1997, c. 949 (S.B.95), § 10; Stats.1998, c. 210 (S.B.2008), § 2; Stats.2001, c. 243 (A.B.192), § 11.)

**11126.4. Closed sessions of
Gambling Control Commission;
information prohibited from being
disclosed by law or tribal-state gaming
compact; limitations; public notice**

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(Added by Stats. 2005, c. 274 (S.B. 919), § 1.)

11126.5. Disorderly conduct of general public during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

(Added by Stats.1970, c. 1610, p. 3385, § 1. Amended by Stats.1981, c. 968, p. 3692, § 15.)

11126.7. Fees

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

(Added by Stats.1980, c. 1284, p. 4341, § 14. Amended by Stats.1981, c. 968, p. 3692, § 16.)

11127. Application of article

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1981, c. 968, p. 3692, § 17.)

11128. Time of closed session

Each closed session of a state body shall be held only during a regular or special meeting of the body.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1980, c. 1284, p. 4341, § 15; Stats.1981, c. 968, p. 3692, § 18.)

11128.5. Adjournment; declaration; notice; hour for reconvened meeting

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

(Added by Stats.1997, c. 949 (S.B.95), § 11.)

11129. Continuance; posting notice

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours

after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3692, § 19.
Amended by Stats.1997, c. 949 (S.B.95), § 12.)

11130. Actions to prevent violations or determine applicability of article; validity of rules discouraging expression; audio recording of closed sessions; discovery procedures for recordings

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1969, c. 494, p. 1106, § 1;
Stats.1981, c. 968, p. 3693, § 20; Stats.1997, c. 949
(S.B.95), § 13; Stats.1999, c. 393 (A.B.1234), § 4;
Stats.2009, c. 88 (A.B.176), § 43.)

**11130.3. Judicial determination
action by state body in violation of §§
11123 or 11125 null and void; action by
interested person; grounds**

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

(Amended by Stats.1999, c. 393 (A.B.1234), § 5.)

11130.5. Court costs and attorney fees

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a

personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Added by Stats.1975, c. 959, p. 2240, § 6. Amended by Stats.1981, c. 968, p. 3693, § 21; Stats.1985, c. 936, § 2.)

11130.7. Violations; misdemeanor

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

(Added by Stats.1980, c. 1284, p. 4341, § 16. Amended by Stats.1981, c. 968, p. 3693, § 22. Amended by Stats.1997, c. 949 (S.B. 95), § 14.)

11131. Use of facility allowing discrimination; state agency

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry, or any characteristic listed or defined in Section 11135 or that is inaccessible to disabled persons, or where members of the

**BAGLEY-KEENE OPEN MEETING ACT – 2017
(CALIFORNIA GOVERNMENT CODE)**

public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

(Added by Stats.1970, c. 383, p. 798, § 1. Amended by Stats.1981, c. 968, p. 3693, § 23. Amended by Stats.1997, c. 949 (S.B.95), § 15.; Stats. 2007, c. 568 (A.B. 14), § 32.)

11131.5. Identity of victims or alleged victims of crimes, tortious sexual conduct, or child abuse; public disclosure

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

(Added by Stats.1997, c. 949 (S.B.95), § 16.)

11132. Closed session by state body prohibited

Except as expressly authorized by this article, no closed session may be held by any state body.

(Added by Stats.1987, c. 1320, § 4.)

Department of Consumer Affairs Travel Guide

Office of Administrative Services Accounts Payable Travel Unit



July 2022

Disclaimer: *Bargaining Contracts, California Department of Human Resources (CalHR), Departmental Policy and the State Administrative Manual (SAM) sets forth the information contained in this Travel Guide. If any of the information within conflicts with the most recent provisions set forth by the said mentioned above, then those provisions will supersede this Travel Guide. Information provided in this Travel Guide is routinely updated by various control agencies. The traveler or user of this Travel Guide must always make sure they have the most current information. Click on the web links to view the most current information.*

Table of Contents

Chapter 1: Introduction and Definitions	1
Introduction	1
Who can file a claim?	1
Terms.....	2
Policies	2
Chapter 2. Per Diem Allowances	5
Introduction	5
Lodging Rates.....	6
Hotel Tax Waiver	7
Acceptable Receipts	7
Sharing a Room	7
Meal Rates.....	7
Fewer Than 24 Hours	8
More Than 24 Hours	8
Incidentals.....	9
Business-Related Meals	9
Receipts.....	9
Overtime Meals and Rates.....	9
Definitions	10
Arduous Work OT Meal*	10
Excess Lodging Policy and Procedure.....	10
Reasonable Accommodation	11
Exception to Travel Status Policy.....	11
Exception Authority, Limits, and Criteria	11
Exception Process	12
Chapter 3. Transportation.	13
Introduction	13
Supervisor’s Responsibility	13
Determining the Most Economical Mode of Travel.....	14
Cost Comparison	14

Example of Cost Comparison	15
Reimbursement.....	15
Exception	15
Direct and Indirect Travel Arrangements	15
Air Travel.....	16
Airport Parking	16
Non-Employee Reservations (Airfare and Lodging).....	17
Frequent Flyer Programs	17
Receipts	17
Privately Owned Aircraft Usage SAM 0743 and 0746	18
State-Owned, Privately Owned, and Commercially Owned Rental Vehicle Use.....	18
Commercial Rental Cars	19
Car Rental Reservation Information.....	19
Private Vehicle Authorization and Use.....	22
Mileage Rate Reimbursement.....	22
Alternate Worksite Mileage	23
Airport Dropoff.....	23
Motor Vehicle Accident Reporting.....	23
Overtime and Callback Mileage	23
State Vehicle Emergency Repairs	23
Taxis and Shuttles	24
Uber and Lyft	24
Parking and Tolls (SAM section 0755)	24
Commuting Transit and Vanpool	24
CHAPTER 4. BUSINESS EXPENSES AND RECEIPTS.....	25
Business Expenses.....	25
Valid Receipts	26
Required Receipts.....	26
Receipts Not Required.....	27
Lost Receipts	27
Odd-Size Receipts	27

Chapter 5. Reportable Tax Items.	27
Introduction	27
Reportable Items	28
Reportable Withholdings	28
Capturing Reportable Items	29
Chapter 6. Out-of-State, Out-of-Country, and Amended Claims.	30
Introduction	30
Out-of-State Travel (OST)	30
Out-of-Country Travel	31
Amended Claims	31
Chapter 7. Travel and Evidence Advances.	32
Travel Advances	32
Chapter 8. Filing Requirements.	33
Claim Form and Correction Instructions	33
When to Submit Travel Expense Claims	34
Required Information	34
Chapter 9. Completing a Travel Expense Claim.	35
Introduction	35
Employee Information	35
Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures	36
Appendix	37
Resource Materials	37
Useful Websites and Addresses	38
List of Related Forms	38

Chapter 1: Introduction and Definitions

Introduction

The purpose of the Department of Consumer Affairs Travel Guide (Guide) is to provide and define the basic travel reimbursement rules for employees who are required to travel on official State business, methods of travel that are available, and how to use them, in accordance with the State Bargaining Contracts, California Department of Human Resources (CalHR) travel rules for state officers and employees pursuant to Sections 599.615 through 599.638.1 of Article 2 of Subchapter 1 of Chapter 3 of Division 1 of Title 2 of the California Code of Regulations, and the *State Administrative Manual (SAM)*, Chapter 700. If any of the information herein conflicts with the most recent provisions set forth by the bargaining contracts or legal provisions cited above, then those provisions will supersede this Guide. In addition, information provided in this Guide is routinely updated by various control agencies. The traveler or user of this Guide must always make sure they have the most current information.

Note: The travel reimbursement program is subject to Internal Revenue Service (IRS) requirements. There are no flat reimbursement rates. All items claimed must be for the actual amount of the expense, up to the maximum rates allowed for all State officers, employees, and agents of the State traveling on official State business.

Who can file a claim?

All Department of Consumer Affairs (DCA and/or Department) employees and any agent of the State (listed below) may request a travel advance and/or travel reimbursement using the appropriate Department forms and the CalATERS Global System. Certain restrictions may apply (see reference-related section for specific requirements).

Statutory Board Members are individuals appointed to serve on boards or commissions established by law. Members are appointed by the Governor, Legislature, or Department Head. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Non-statutory Board Members are individuals appointed to serve on boards, commissions, committees, or task forces that are created by agency secretaries, department directors, executive officers, or board members on an as-needed basis to fulfill the Department's mission. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Proctors are intermittent hires through the State Personnel Board. Proctors administer written or physical agility exams for civil service classification. Reimbursement for necessary travel expenses is based on the rates for non-represented employees.

Volunteers are individuals who voluntarily perform services for the State without pay. The volunteer must sign an Oath of Allegiance, which is kept on file at the Department with the Volunteer Service Agreement. Volunteers will be reimbursed for necessary travel expenses at the rate negotiated for State employees performing comparable duties.

Terms

Short-Term Travel: Expenses incurred at least 50 miles (one-way) from headquarters and/or residence when applicable and is fewer than 31 consecutive days.

Long-Term Travel: Travel that is in excess of 30 consecutive days becomes long-term travel. Specific reimbursement rates and reporting requirements apply; contact your Travel Liaison.

Per Diem Expenses: Meals, lodging, and all appropriate incidental expenses incurred may be claimed when conducting State business while on travel status.

Transportation Expenses: Various modes of transportation used while on official State business; for example, airfare, vehicle, taxi, and shuttle expenses.

Business Expenses: Charges necessary to the completion of official State business, such as business phone calls, emergency clothing, and emergency supplies. All purchases shall be justified, and if the total business expense is more than \$25, the claim must be approved by the DCA Accounting Administrator II.

Conference or Convention: A meeting with a formal agenda of persons to discuss or consult on specific work-related subjects with the purpose of exchanging views, providing lectures or dialogue, or providing or gaining skills and/or information for the good of the State. Requires an approved conference attendance request prior to attending and must be attached to the [Travel Expense Claim \(TEC\) \(STD 262 A\)](#).

Non-State Sponsored Conference: Planned, arranged, and funded by an outside entity.

State-Sponsored Conference: Planned, arranged, and funded by State agencies for the benefit of the State and/or outside parties for the purpose of conducting State business.

Policies

Official Established Headquarters: Shall be designated for each State officer and employee and defined as the place where the officer or employee spends the largest portion of their regular workdays or working time, or the place to which they return upon completion of special assignments. In some instances, however, it may be in the best interest of the Department to designate either an employee's residence address or an assigned geographic area as their headquarters. Home-as-headquarters and

geographic area designations will be based upon a determination of “economic merit” for geographic and logistical circumstances where the State benefits from such a determination, either in increased efficiencies or reduced costs.

Signature Authority: The signature of the approving officer certifies that the traveler is authorized to travel, the expenses incurred were to conduct official State business, and that the items claimed are appropriate and keeping within the rules that govern State business travel. Typically, the approving officer would be the traveling employee’s immediate supervisor.

Travel Approvals (Updated May 2020)

Type of Travel	Who Must Approve?	Date to DCA	Forms Required	Submittal Recipient/ Questions
Conference Attendance	<ul style="list-style-type: none"> • EOs, Bureau Chiefs or Deputy Directors • DCA Deputy Director of Administrative Services 	One month prior to travel	<ul style="list-style-type: none"> • Conference Attendance Request • Conference Agenda • Bulleted Memo • All documents supporting the necessity & mission criticality of the travel • EO or AEO signature required 	<p>Nicole Le Deputy Director Administrative Services (916) 574-8306 Nicole.Le@dca.ca.gov</p>
Mission Critical In-State Travel	<ul style="list-style-type: none"> • EOs, Bureau Chiefs or Deputy Directors 	<p style="text-align: center;">N/A</p> <p style="text-align: center;"><i>Delegated Authority; Not Submitted to DCA for Approval</i></p>	<ul style="list-style-type: none"> • Approvers retain: <ul style="list-style-type: none"> - Bulleted Memo - Agendas and all documents supporting the necessity and mission criticality of the travel - EO, Bureau Chief or Deputy Director approval signatures <p><i>NOTE: If the travel is in-state and to a conference, the conference attendance process is to be followed.</i></p>	<p>Questions to Kam Khatra Accounting Administrator (916) 574-7170 Kam.Khatra@dca.ca.gov</p>

Out-of-Country	<ul style="list-style-type: none"> EOs, Bureau Chiefs or Deputy Directors DCA Budget Office DCA Director Agency Secretary Governor's Office 	Three months prior to travel	<ul style="list-style-type: none"> Out-of-State Travel Memo Template STD. 257 Approval Request Form Cost Breakdown Document Agendas and all documents supporting the necessity and mission criticality of the travel EO signature required 	<p>Taylor Schick DCA Fiscal Officer (279) 278-5834 Taylor.Schick@dca.ca.gov</p> <p>Vacant Deputy Director Board & Bureau Services (916) 574-8214 Carrie.Holmes@dca.ca.gov</p>
Out-of-State	<ul style="list-style-type: none"> EOs, Bureau Chiefs or Deputy Directors DCA Budget Office DCA Director Agency Secretary Governor's Office 	Two months prior to travel	<ul style="list-style-type: none"> Out-of-State Travel Memo Template STD. 257 Approval Request Form Cost Breakdown Document Agendas and all documents supporting the necessity and mission criticality of the travel EO signature required 	<p>Taylor Schick DCA Fiscal Officer (279) 278-5834 Taylor.Schick@dca.ca.gov</p> <p>Vacant Deputy Director Board & Bureau Services</p>
Travel Advance Exception Request	<ul style="list-style-type: none"> EOs, Bureau Chiefs or Deputy Directors DCA Deputy Director Board & Bureau Services DCA Accounting Office 	10-days prior to travel	<ul style="list-style-type: none"> Advance approval in the CALATERS System (Carrie Holmes) Travel Advance Exception Approval Request Form (Kam Khatra) 	<p>Vacant Deputy Director Board & Bureau Services</p> <p>Kam Khatra Accounting Administrator</p>
50-Mile Exemption Request	<ul style="list-style-type: none"> EOs, Bureau Chiefs or Deputy Directors DCA Accounting Office 	10-days prior to travel	<ul style="list-style-type: none"> Bulleterd Memo Additional Detail: <ul style="list-style-type: none"> - Start and end time of the meeting(s) - Mileage from traveler's house to the meeting site - Estimated Commute Time EO or AEO signature required 	<p>Kam Khatra Accounting Administrator</p>

Excess Lodging Request	<ul style="list-style-type: none"> • EOs, Bureau Chiefs or Deputy Directors • DCA Accounting Office • California Department of Human Resources (CalHR) 	10-days prior to travel	<ul style="list-style-type: none"> • Excess Lodging Form • Three lodging quotes • Justification as to why the proposed lodging is needed • Traveler or manager's signature required <p>Note: CalHR approval required for lodging over \$250.</p>	Kam Khatra Accounting Administrator
------------------------	---	-------------------------	--	---

The Deputy Director of Board Relations approves Board Presidents' [TECs](#). Once they have been reviewed and initialed by the Executive Officer, the Board President shall approve the Executive Officer's and the Board Members' travel claims. In the absence of the Board President, the Board Vice President shall approve the Executive Officer's and the Board Members' travel claims.

The Deputy Director of the Office of Administrative Services approves Bureau and Board Presidents', Bureau Chiefs', Division Chiefs', and Deputy Directors' travel advances, expense claims, conference requests, and authorized signature forms. The Deputy Director of the Office of Administrative Services also approves all exception-to-travel status for board and bureau and Travel Advance Requests for non-salaried employees. In the absence of the Board President, the Board Vice President shall approve the Executive Officers' and the Board Members' travel claims.

In the extended absence of either the Deputy Director of Board and Bureau Services or the Deputy Director of the Office of Administrative Services, either can approve the above for boards and bureaus.

All approving officers must have a signature card on file with the Accounting Office before approving a claim.

Note: See DCA policy, form, and procedures posted on the ["Accounting" page of the DCA Intranet](#) regarding authorized signatures.

Chapter 2. Per Diem Allowances

Introduction

The State provides for reimbursement of actual and necessary out-of-pocket expenses while traveling on State business. When determining the appropriate amount of reimbursement allowed for meals, lodging, and incidentals, two criteria need to be

considered: distance and time. Employees on travel status must be at least 50 miles from home and/or headquarters. The most direct route determines this distance.

For short-term travel status per diem (meals, lodging, and incidentals), several factors need to be considered, such as:

- The bargaining unit of the employee (represented or excluded).
- Geographical location of travel must be at least 50 miles (one-way) from where the trip begins at headquarters and/or home. Factors include: Which is the closest distance? Is travel during normal working hours or not? Is it a second worksite?
- The timeframe in which the trip started and stopped.
- The type and location of facilities used for lodging.

Lodging Rates

Short-term reimbursement rates for lodging expenses are as follows. Please review your Bargaining Unit Contract on [CalHR](#) website for current rates.

For Excluded/Exempt, BU 1 through BU 21	
Lodging	Reimbursement
Statewide (except for those listed below)	\$90.00 plus taxes/resort fees on the entire cost of the lodging rate.
Napa, Riverside, and Sacramento Counties	\$95.00 plus taxes/resort fees on the entire cost of the lodging rate.
Marin County	\$110.00 plus taxes/resort fees on the entire cost of the lodging rate.
Los Angeles, Orange, Ventura Counties, and Edwards AFB, excluding the City of Santa Monica	\$120.00 plus taxes/resort fees on the entire cost of the lodging rate.
Monterey, San Diego	\$125.00 plus taxes/resort fees on the entire cost of the lodging rate.
Alameda, San Mateo, and Santa Clara Counties	\$140.00 plus taxes/resort fees on the entire cost of the lodging rate.
City of Santa Monica	\$150.00 plus taxes/resort fees on the entire cost of the lodging rate.
San Francisco County	\$250.00 plus taxes/resort fees on the entire cost of the lodging rate.

Lodging facilities include commercial hotels and motels and residential property—short term rental, that are reserved for fewer than 30 days. (See [CalHR PML-2015-039](#), Assembly Bill 229 (Stats. 2015, ch. 770), effective January 1, 2016 through December 31, 2018.) All rates for reimbursement are limited to State-contracted lodging rates. (See [CalHR Travel Reimbursements](#).)

Hotel Tax Waiver

The [Hotel/Motel Transient Occupancy Tax Waiver, STD 236 \(New 9-91\)](#), is available on the [DCA Intranet](#) Travel Home Page and should be used whenever possible. This form must be completed in advance and given to the hotel for its records. In most cases, employees must ask for the exemption at time of reservation. Some hotels will not honor the tax waiver.

Acceptable Receipts

Lodging receipt must indicate the establishment's name, address, and check-in/check-out dates and times, number of occupancies, room rate, taxes, and method of payment.

In the rare event where an employee chooses to use a third-party vendor (such as Priceline.com, Expedia.com, Travelocity.com, Hotels.com, etc.) to make travel arrangements, the following instructions must be strictly adhered to:

- Employees who request reimbursement for receipts from third-party vendors for lodging expenses related to a State-approved relocation or for lodging expenses incurred while traveling on State business, must provide a valid receipt from the third-party vendor and the commercial lodging establishment where the employee stayed.

Both receipts are required to properly substantiate a valid business expense.

Sharing a Room

When sharing a room with another State employee, each person can claim half the room rate, or one employee can claim the entire amount and reference the other person in the comment section. Both employees should file their travel expense claims ([TECs](#)) at the same time and a copy of the other's claim should be attached to their own.

Meal Rates

There are no flat reimbursement rates. All items claimed are to be for the actual amount of the expense, up to the following maximum reimbursement amounts listed below. The employee (or agent of the State) shall not claim reimbursement for any meals provided by or included in the cost of the hotel stay, airfare, and conference or convention registration fee and/or provided by the terms stated in a State contract. Please review your Bargaining Unit Contract on [CalHR, Travel Reimbursements](#) website for current rates.

Excluded and/or exempt employees and represented employees in Bargaining Units (BU) 1 through 21, please review your existing MOU for current rates (see following table).

Expense	Maximum Reimbursement For Actual Expense
Breakfast	Up to \$7
Lunch	Up to \$11
Dinner	Up to \$23
Incidental	Up to \$5

Fewer Than 24 Hours

The following table shows conditions under which a represented or non-represented employee may be reimbursed for meals while on travel status, if the trip is fewer than 24 hours:

Starts Trip on OR Before	Returns from Trip on OR After	Entitled To
6 a.m.	9 a.m.	Breakfast
4 p.m.	7 p.m.	Dinner

Note: Board and committee members are entitled to meals, including lunch, on a one-day trip only when attending official scheduled board or committee meetings. These meal expenses are excused from the travel status mileage requirement, but all-time requirements are applicable; for example, start trip at or before 11:00 a.m. and end at or after 2 p.m. to claim lunch. In addition, meals on trips of fewer than 24 hours will be reported as a taxable fringe benefit as required by the IRS.

More Than 24 Hours

If a trip is more than 24 hours, but fewer than 31 consecutive days, a represented or non-represented employee is entitled to breakfast, lunch, and dinner for every full 24-hour period while on travel status. The following table shows the meal entitlements for the last fractional period:

Starts Trip on OR Before	Returns from Trip on OR After	Entitled To
6 a.m.	8 a.m.	Breakfast
11 a.m.	2 p.m.	Lunch
5 p.m.	7 p.m.	Dinner

Incidentals

Incidental reimbursement is allowed for every full 24 hours of travel up to the maximum amount allowed per Bargaining Unit Contract for actual necessary expenses. Incidentals include expenses for fees and tips for services such as porters, baggage carriers, and hotel staff. No other items may be claimed as an incidental cost. (See [CalHR PML 2015-003](#) and [IRS Publication 463](#).)

Business-Related Meals

In rare instances, the cost of business-related meal expenses may be allowed. It must be clearly shown that it was impractical to conduct the State's business during working hours and that the meal took place in conditions beyond the employee's control. Justification should be provided on the [TEC](#).

The statement must include the purpose or goal of each business-related meal and the unusual conditions that justify payment. The employee may claim expenses not to exceed the breakfast, lunch, or dinner allowance, whichever meal was consumed. The amount must be supported by a voucher or receipt for represented employees. Claims must include the establishment, the persons in attendance, and the business conducted during the meal period. No reimbursement is allowed for the meal if the employee claims per diem for that day.

Allowable meals may include: Participants from different cities hold a luncheon to allow one or more of them to make connections on a scheduled flight; an employee is required to go to lunch as a member of a group, such as a board or commission where official business is conducted; the meeting does not adjourn during the lunch and the employee has no choice of place to eat.

Non-allowable meals include: Two or more employees go to lunch together and continue their business as an incidental to the meal; the meal is strictly for public relations purposes; departments call meetings with their own and/or other department employees to conduct State business; the meeting could have taken place during regular working hours.

Receipts

Although the Department does not require receipts for most meals or incidentals, except as noted above, the traveler must retain all their meal and incidental receipts for IRS purposes.

Overtime Meals and Rates

Overtime meal reimbursement is allowed when the employee works two excess hours, either consecutive or contiguous to regular scheduled work hours. Rates and terms are defined by each bargaining unit contract as stated below. In determining the overtime hours worked for meal compensation, do not include any breaks for meals. Only one

meal allowance may be claimed each day unless the employee has worked a minimum of 16 hours. For every six additional hours worked in excess of ten hours, another meal allowance may be claimed, not to exceed three overtime meals within 24 hours.

Bargaining Unit	Rate	Consecutive*	Contiguous*
10	\$7.50	X	
1, 4, 11 & 14	\$8.00		X
2, 7, 9, 12, 16 & 19	\$8.00	X	
Excluded & 21 (exempt FLSA)	\$8.00	X	

Definitions

Consecutive: Works either two hours before or two hours after normal work hours on a regular scheduled workday; works two hours in excess of normal work hours on weekends, holidays, or regular scheduled day off (RDO).

Contiguous: Works two or more hours in excess of the number of hours worked on regular scheduled workday.

Excluded: Work Week Group Exempt (WWGE) and Represented Employees Exempt from Fair Labor Standards Act (FLSA) are only entitled to overtime meals for extended arduous work.

Arduous Work OT Meal

Meals for Extended Arduous Work: On those rare occasions when an employee who is in a Work Week Group other than Work Week Group 2 would be required to physically or mentally work ten hours or more (not including any breaks for meals) for an extended period. The employee, with approval of the appointing authority, may claim the actual cost of an arduous work meal up to \$8. Such meals should only be approved when the work schedule is consistently in excess of a normal full-time schedule. Occasional extra hours worked, consistent with the nature of other than a Work Week Group 2 schedule, do not meet the criteria for Extended Arduous Work Meals.

Excess Lodging Policy and Procedure

Request for reimbursement of lodging expenses in excess of the State-specified rates, excluding taxes, must be received ten days prior to the trip. Approval is required from the DCA Accounting Administrator II up to \$250 and CalHR if more than \$250. Please note that although DCA has been delegated authority to make determinations regarding Excess Lodging Rate Requests up to \$250 per night, the Excess Lodging Rate Form (STD 255C) has been updated to reflect the increased amount. The [Excess Lodging Rate Request \(STD 255C\)](#) form located on [DCA Intranet](#) should be completed and contain the following:

- A list of at least three hotels contacted using the [Concur CalTravel Store](#) website to obtain State rate lodging. Contact additional hotels if no State rate hotels are found within the work area.
- Supporting documentation that a reasonable effort was made to locate lodging at State-specified rates. Using only higher-rate hotels in the documentation cannot be considered reasonable efforts.
- Explain any applicable reasons for the State business need for an exception to the State's standard lodging rate.
- Obtain all required signatures and submit the request to the DCA Travel Unit at least ten working days prior to the trip, when possible.
- Employees who incur expenses in excess of standard reimbursement will be responsible for the difference if the excess lodging request is denied.
- Attach agendas for any approved conference or convention that would assist in the travel justification.

Reasonable Accommodation

A reasonable accommodation can be obtained with supporting documentation through DCA Office of Human Resources Health & Safety Unit when travel requirements are a hardship to the employee for medical reasons. Please obtain the reasonable accommodation approval prior to the trip. (See [Health & Safety Unit, Reasonable Accommodation, DCA Intranet.](#))

Exception to Travel Status Policy

It is the policy of the DCA to adhere to the rules and regulations as defined by the CalHR regarding the approval of requests for reimbursement within 50 miles of the employee's home or headquarters when conducting official State business. Extreme acts of God and nature that place the employee in harm's way are automatic and will be approved after the fact, when fully documented ([SAM section 0715](#), [CalHR PML 93-28.](#))

Note: All exceptions to travel status reimbursements will be reported as a taxable fringe benefit as required by the IRS.

Exception Authority, Limits, and Criteria

The CalHR delegated the exception to travel status authority to the Director of the DCA, who delegated the authority to the Chief Accounting Officer. There is no other allowable signature authority for this delegation. This delegation is extended with the provision that it will be administered according to the criteria, considerations, and

record-keeping requirements as stated below. All exceptions are subject to audit by CalHR. Exceptions are to be granted in advance of the occurrence by the appointing power.

This delegation does not extend to the approval of meals or lodging at either the home or headquarters location. There is no allowance for any increase in the standard short-term travel reimbursement rates for meals and lodging or partial exceptions, such as lodging allowance without meals. When exceptions meet all the requirements and are granted by the Chief Accounting Officer, the employee is entitled to full short-term travel reimbursement rates. This exception is not to be used in lieu of overtime for one-day travel.

Exception requests will be considered under a limited number of circumstances when the employee is required to be away from their home and headquarters locations for more than a single day, but fewer than 50 miles. These include the nature of the work performed, the hours of work, or the apparent road and/or weather conditions make it impractical for the employee to return home or to the headquarters location at night.

The CalHR has guidelines for an exception approval criterion that includes reasonable commute mileage. State departments are expected to demonstrate that every consideration has been given to minimize the cost to the State through responsible planning and scheduling.

Exception Process

A written request must be submitted in advance of the occurrence to the Accounting Office for review and approval by the Chief Accounting Officer. The Executive Officer or the Division/Bureau/Program Chief must approve all exception requests. Requests must contain the following information for each attendee:

- Name and classification of employee(s) requesting exception. If the time period and reason for expense are the same, submit a group request listing each employee's name, classification, the time period, and reason.
- Home and Headquarters address with distance to location of the event.
- Name and address of the location where expenses will be incurred.
- Name of the sponsor of the event.
- Reason(s) for the exception request; attempts made to reduce the costs.
- Amount of the anticipated expenses, including tax.

- For a conference or convention with more than one attendee, explain why one employee could not achieve the goal and attach a training and development request with approval.

Note: Provide copies of the agenda, conference/convention announcements, and map/mileage printouts. Once the exception request has been processed, a copy will be forwarded to the requesting office by the DCA Accounting Office. The requesting office must maintain a record of each request for the standard five-year record retention schedule.

Chapter 3. Transportation.

Introduction

The cost of transportation while on official State business should be accomplished by using the most economical means for the State, according to the [SAM section 0700 \(General Policy\)](#).

All transportation costs related to State business travel should be entered on all [TECs](#).

Transportation expenses consist of:

- Commercial airfares;
- Private vehicle use;
- Commercial rental car use;
- Gasoline for State or rental cars;
- Taxis, shuttles, or streetcar fares;
- Transportation Network Companies (TNT) – Uber and Lyft;
- Parking of State, rental, or privately-owned vehicles;
- Bridge and road tolls;
- Emergency repairs (State cars only); and
- Commuting transit/vanpool (employee benefit) use.

Supervisor's Responsibility

It is the supervisor's responsibility to ensure the method chosen for travel on State business is in the best interest of the State and not for the employee's convenience.

Determining the Most Economical Mode of Travel

When determining the most economical mode of transportation, the following costs should be considered:

- Employee's time;
- Expenses for transportation (airline, bus, train, parking, shuttle, tolls, etc.);
- Expenses for meals, incidentals, lodging, and any other State business expense;
- Urgency of the situation;
- If the employee must carry specialized equipment;
- Number of stops and amount of equipment;
- Number of people to be transported (is it more economical?);
- Driving time one-way (is it more than two hours?);
- Availability of transportation to and from the destination; and
- Overtime wages.

Cost Comparison

Reimbursement will be made for the mode of transportation which is in the best interest of the State, considering direct expenses as well as the employee's time. If the employee chooses a more expensive mode of transportation, reimbursement will be for the least expensive mode of travel. Expenses incurred at the travel destination will be reimbursed based on the actual business expenses incurred while at that location.

A [cost comparison](#) must:

- Be completed and attached to the [TEC](#), showing both methods of travel.
- Include the least costly methods of travel for those expenses being substituted.
- Include only the expenses of traveling from one location to another. Do not include any worksite expenses. Expenses incurred onsite are to be claimed separately.

- An employee choosing to use a more expensive mode of transportation will only be reimbursed for the amount it would have cost for the most economical mode of travel.
- A [cost comparison](#) showing actual cost incurred versus the most economical mode and cost must be submitted with an employee's [TEC](#). The [cost comparison form](#) is provided in Appendix A for your convenience.

Example of Cost Comparison

The most common cost comparison is when the employee chooses to drive their personal vehicle versus using normal air transportation. For example, when an employee drives (having obtained supervisor's prior approval) to Los Angeles from Sacramento, the comparison is computed from the point the employee would normally have left on travel status in Sacramento to the point of landing in Los Angeles. Please note all cost comparisons should be calculated using the current mileage rate and State rates for airfare if applicable.

Air Costs		Vehicle Costs	
Ticket roundtrip	\$216.00	Mileage: City-to-city roundtrip:	
Mileage to/from airport		30 miles x 62.5 cents per mile=	\$18.75
Parking	<u>\$20.00</u>	720 miles x 62.5 cents per mile =	<u>\$450.00</u>
Total	\$254.75		

Reimbursement

The least expensive method of transportation will be reimbursed on the [TEC](#). The time requirement for meals and lodging would be allowed for the time the employee would have left and returned had they flown. Additional meal and lodging expenses incurred as a result of using an alternative method of transportation is at the employee's own expense.

Exception

An exception to the least-expensive requirement would be if an employee has a reasonable accommodation approval through the Department [Health & Safety Unit](#), which prevents the employee from specific modes of travel, such as air travel.

Request guidance from the Accounting Office Travel Unit (calaters@dca.ca.gov) when special circumstances arise prior to commencing the trip.

Direct and Indirect Travel Arrangements

All travel arrangements for air, auto rental, and lodging for official State business must be made through the Department's approved travel agency, Concur CalTravelStore.

Air Travel

Before making airline reservations, be aware of the contract rates and where to book your flights. The State contracted rate includes airfare for origination and destination points known as city pairs for within California, out-of-State, and international destinations. The contract rates are unrestricted one-way fares and are not subject to limited seating.

When booking on Southwest Airlines, you should only select “Want to Get Away”. You should never select Business Class-type flights; if selected, you will be responsible for the difference in cost.

The 2020-23 contract fares are with United Airlines and Southwest Airlines. You must purchase your airline tickets through the CalTravelStore, the certified State travel agency, using your Department’s centralized Citibank Business Travel Account (BTA). The CalTravelStore website contains the online booking tool Concur Travel (formerly Cliqbook), the online booking tool for all airline travel.

All travel arrangements for official State business must be made through the Department’s approved travel agency, CalTravelStore (www.caltravelstore.com).

Current Airfare Contract: [DGS TB #20-03 Airfare for Official State Business; July 1, 2020 – June 30, 2023](#)

Air Travel: [SAM section 741](#).

Airline Itinerary Requirements: [SAM section 8422.114](#).

Airport Parking

Employees parking at the airport must use the most economical parking available. However, if the board, bureau, or division determines that additional parking costs above the lowest-cost option are in the best interest of the State, a justification explaining the necessity for the additional cost shall be submitted with the employee’s [TEC](#). Without a receipt, reimbursement is limited to \$10. Please note, [TECs](#) submitted without the required justification may be cut by the State Controller’s Office. (See [CalHR PML 2007-024](#).)

Agencies/departments may consider the following items when determining if additional parking costs are in the best interest of the State:

- The direct expense; and
- The officer’s or employee’s time.

Please contact your Department's Travel Liaison to initiate the start of your CalTravelStore profile. You must complete your registration before booking your travel.

Please use the links below for training and more information:

- After the initial profile setup, you'll access the reservation system at www.caltravelstore.com. Click on "Concur Login" to complete your profile.
- [Concur Travel Demo](#) (video) and [Concur Interactive Training](#).
- Concur Travel FAQs: [Concur Travel Booking Tool Training, Guides](#)

For security reasons, every traveler will need to contact their board or bureau Travel Liaison to initiate their CalTravelStore profile. Your user ID is your Department e-mail address. You must use your Department e-mail address as your user ID to have access to our Department's company ID. This e-mail address will be your user ID for future access to the reservation system. After you receive your temporary password, you can complete your profile and book your trips. In addition, you'll need to change the temporary password to ensure your account is secure. Once you've established a user ID and password, the system will request that you complete the profile. After you've completed the profile, you must save the information before you attempt to book a trip. The CalTravelStore has a travel reservation guide and video to help; they are provided on the website and link above.

Non-Employee Reservations (Airfare and Lodging)

You can make reservations for non-State employees conducting State business for your program, such as subject matter experts, volunteers, witnesses, or contractors, and receive State rates when using the DCA State-contracted travel service agency. One-time travelers should be booked as a guest traveler; no profile should or needs to be established.

Frequent Flyer Programs

Employees who earn travel premiums (frequent flier miles/points) while on official State business may use these travel premiums for their personal use. The value of these premiums will not be reimbursed to the employee if used for State business. (See [PML 2005-051](#).)

Receipts

Airline itinerary or passenger receipts should include the traveler's name, dates and times of travel, destination, and amount of airfare. This document must be submitted with the employee's [TEC](#). The cost should always be entered on the claim as "Commercial Airfare," and "Department Paid" should be selected for payment type.

Privately Owned Aircraft Usage [SAM 0743](#) and [0746](#)

Travel on official State business may be by privately owned, rented, or leased aircraft whenever this is the least costly means or is in the best interest of the State.

Employees must first obtain supervisor and agency approval. Employee pilots shall certify at least yearly to their employing agency that they have the required liability insurance during the period of official travel. These required limits are shown on [STD 265 \(New 2-91\)](#). Use [STD 265](#) for certification and insurance. (See [SAM section 0746](#).)

In all cases, the aircraft must be certified in accordance with Federal Aviation Administration regulations and properly equipped for the type of flying to be performed.

State employees who pilot aircraft on official State business must meet the requirements of CalHR Rule 599.628 and [SAM section 0747](#).

Reimbursement for use of privately-owned aircraft: [SAM section 0744](#)

The reimbursement rate for employee privately owned aircraft is \$1.81 per statute mile effective Jul.1, 2022 to Dec 31, 2022 [Private Aircraft Mileage](#). Mileage is computed on the shortest air route from origin to destination, using airways whenever possible. Enter "Air Miles" and mileage on the [TEC](#). For expenses other than mileage, substantiate the expense with a voucher. Landing and parking fees are paid except at the site where the aircraft is normally stored.

State-Owned, Privately Owned, and Commercially Owned Rental Vehicle Use

Agencies determine who will drive on official State business and the vehicle type to be used: State-owned, privately owned, or commercially owned vehicles. The definition of "use of a State vehicle in the conduct of State business" includes the use of State vehicles "when driven in the performance of, or necessary to, or in the course of, the duties of State employment and shall include the operation of State-owned or leased vehicles as commute vehicles in a carpool or vanpool program authorized by a State agency." ([SAM section 0750](#).)

State vehicles may be authorized when two or more employees are traveling together; the trip includes intermediate stops not feasible for public transportation; the schedule of public carriers does not fit the itinerary; transportation is not available at the destination; or an employee must carry specialized tools, books, etc.

Privately owned vehicles may be used by employees on official State business if this is approved by the DCA. If the use is not less costly, the supervisor may authorize the use, but the payment will be for the less-costly alternative. No agency will require an employee to use their privately-owned vehicle unless this is a formal condition for employment.

The following circumstances are prohibited uses of State vehicles:

- Using the State vehicle for anything other than conducting State business.
- Carrying in the vehicle non-Departmental employees, friends, or family members.
- Using the vehicle for private or recreational use.

Commercially owned rental vehicles may be rented when a State vehicle is not available and automobile travel is essential. The employee must return the rental car at the end of each work week State business is concluded. Refer to the [Department of General Services \(DGS\) website](#) to view the rental car contract and ensure adherence to State policy. (See Appendix.)

Commercial Rental Cars

Transportation Services: [SAM Section 4100](#)

CalHR Policies for Method of Travel: [Travel Reimbursements - CalHR](#)

[DGS State Fleet Handbook \(revised May 2008\), at Page 5.](#)

DGS Rental Car Policies and Procedures: [Car Rental Resources for State Travel](#)

The State contract vendor for rental vehicles is Enterprise Rent a Car. The [current contract](#) is effective March 2019. Click on www.dgs.ca.gov/travel/Programs/RentingaVehicle.aspx for more information.

[Commercial Car Rental Car Rates](#) as of March 1, 2019:
http://inside.dca.ca.gov/documents/travel_rental_19-01.pdf[RentingaVehicle.aspx](#) for more information.

The rental of alternative fuel vehicles is encouraged, and their rental rate should be the same.

Here's a link to the complete [rental car contract](#).

Car Rental Reservation Information

Rental Car reservation must be made on [Concur CalTravelStore \(www.caltravelstore.com\)](#).

To receive the contract rate, employees are required to provide a current driver license and a second form of identification (ID) to ensure a smooth delivery of service when

renting a vehicle. Acceptable second forms of ID can be an employee issued ID badge, a business card, a copy of a travel itinerary booked through CalTravelStore or Concur (the online reservation tool), or an authorization letter on Department letterhead. Reservations are required to be made in advance on Concur.

Employees must NOT:

- Extend rental agreements for personal business and pay the difference. When extending business trips for personal reasons, the employee must stop the State rental agreement and initiate a new personal rental agreement.
- Agree to purchase insurance. Insurance is included in the State contracted rates.
- Agree to purchase the fuel service option or prepaid fuel (i.e., a flat refueling rate).
- Agree to purchase higher rate, non-economy cars.
- Carry unauthorized, non-State employees in a rental or State vehicle. If travel plans change, please cancel the reservation.

Insurance

The State contract includes insurance and employees should not accept additional insurance. Employees using a noncontracted vendor may not have insurance included in their rental rate. The employee will be personally responsible for the insurance costs when choosing to use a noncontracted vendor.

In the event an at-fault accident occurs when renting a noncontract vehicle, the employee and the Department may be legally responsible for all damages sustained by others as well as property damage to the rental vehicle. More information on SAM Insurance and Surety Bonds is available at [SAM section 2400](#).

Receipts

DCA policy requires the final rental car receipt be attached to the expense reimbursement claim (STD 262 or CalATERS), whether charged to the Department or paid by the employee. The receipt must indicate the amount charged and payment method. Pre-calculations or reservation agreements are not acceptable. (See [SAM section 8422.115](#); https://www.dgsapps.dgs.ca.gov/documents/sam/SamPrint/new/sam_master/sam_master_file/chap8400/8422.115.pdf.)

Forms of Payment

The contract requires use of the Corporate Rental Business Traveler Account (CRBTA). Use of cash or the traveler’s personal credit card will not guarantee the State contract rate or the State’s insurance coverage.

A [Short-Term Vehicle Justification Form](#), signed by the employee's supervisor will be required for the following “exceptions” for State departments to submit to the State Controller’s Office (SCO):

- Renting a vehicle larger than compact/intermediate size;
- Renting a vehicle from a noncontracted vendor;
- Needing physical or medical accommodations; and

All employees **are not** required to refuel the rental car vehicle prior to returning. When refueling the rental car, the employee must submit a detailed gasoline receipt for reimbursement. Gasoline receipts must show the date of purchase, method of payment, and an expense breakdown: number of gallons, price per gallon, and extended total purchased amount. Prepaid fuel receipts are not acceptable for reimbursement.

The SCO approval form should be attached to the invoice and travel expense claim associated with the justification. State departments are no longer required to receive approval from the DGS Statewide Travel Program. The Short-Term Vehicle Justification Form is available on the DGS website.

Rates include unlimited mileage and are not subject to blackout dates. Contracted vehicle rates information is available on the [DCA Intranet, Travel Bulletin](#). Examples of vehicles are listed in parentheses shown on the list below. The Maximum Cap Rate (MCR) includes the base rate, all fees, all charges, in addition to airport fees, vehicle license fees and, State, city and county, or local surcharges that apply to the commercial car rental industry as a whole and identified by airport. Sales tax and refueling charges are not included in the contract rate.

Short-Term Commercial Car Rental Cost Table
Base Rate with \$300,000 Insurance for Short-Term Rentals
 (Effective March 1, 2021 - February 2024)

Vehicle Class Type	Daily	Weekly
Compact (Nissan Versa, Toyota Yaris)	\$37.75	\$158.55
Mid-Size/Intermediate (Toyota Corolla, Nissan Sentra)	\$37.75	\$158.55

Full-Size (Chevy Impala, Nissan Altima)	\$39.00	\$163.80
FWD/Sport Utility Vehicle (Ford Escape, Jeep Liberty)	\$55.00	\$275.00
Minivan (Chrysler Town and Country, Dodge Grand Caravan)	\$55.00	\$275.00
Pick-Up Trucks (Chevy Silverado, Ford F150)	\$65.00	\$300.00
Plug-In Hybrid Electric Vehicle/Zero Emission Vehicle (Nissan Leaf, Chevy Volt)	\$54.00	\$270.00
Hybrid Electric Vehicle	\$47.00	\$235.00

Note: The State of New York is exempt from the Base Rate listed above. Such rates are subject to open market rates quoted at time of actual car rental.

Private Vehicle Authorization and Use

The SAM requires that before any employee, including a board member, uses a privately owned vehicle to conduct State business, that employee must obtain authorization in writing from his or her supervisor and certify that the vehicle will be operated in compliance with [SAM section 0753](#). An Authorization to Use Privately Owned Vehicles on State Business form ([STD 261](#)) should be completed and on file with the immediate supervisor. The [STD 261](#) form must be updated and re-signed annually.

Employees should be aware that the insurance maintained by the State is for the liability above the amount of the employees' policies. All employees driving on State business must carry evidence of liability insurance coverage. Mileage rates paid to employees include an amount that reimburses employees for maintaining minimum insurance coverage.

Mileage Rate Reimbursement

The following table shows the mileage reimbursement rates for privately owned vehicles: [Mileage Rate](#)

Mileage Reimbursement Rates for Privately Owned Vehicles

1/1/2019–12/31/2019	58.0 cents per mile
1/1/2020–12/31/2020	57.5 cents per mile
1/1/2021–12/31/2021	56.0 cents per mile

1/1/2022 – 6/30/2022	58.5 cents per mile
7/1/2022 – 12/31/2022	62.5 cents per mile

Alternate Worksite Mileage

When an employee’s regular work assignment requires reporting to a second location other than headquarters (e.g., a training site), mileage reimbursement is limited to the actual mileage incurred less their normal commute distance.

Airport Dropoff

When an employee is driven to a common carrier and no parking expenses are incurred during the employee’s absence, they may claim mileage reimbursement at double the number of miles from headquarters or residence, whichever is fewer, while the employee rides in the vehicle.

If travel commences or terminates one hour before or after normal work hours, or on a regularly scheduled day off, mileage may be computed from the residence.

Minimal parking expenses for pickup will be allowed, with justification and/or notation on the [TEC](#).

Motor Vehicle Accident Reporting

All accidents involving a State-owned vehicle, or any vehicle being used on State business ([SAM section 0757](#)), must be reported. Report all accidents immediately to your manager and to the DCA Business Services Office. Accidents must be reported within 48 hours to the Office of Risk and Insurance Management on a Vehicle Accident Report [STD 270](#) form. State reporting requirements are in addition to a regular police report as required by law.

Accident reimbursement claims require special approval and processing. Therefore, contact the DCA Travel Unit for guidance.

Overtime and Callback Mileage

Callback or scheduled overtime mileage incurred on a normal day off, from your home to established headquarters, is reimbursable for Non-represented employees and the reimbursement is a reportable fringe benefit. **Note: Overtime mileage for represented employees is not allowed for pre-scheduled overtime.**

State Vehicle Emergency Repairs

Emergency State vehicle repairs can be reimbursed on a [TEC](#) with the appropriate receipt and written justification or explanation of the event. Repairs require Fleet

Administration approval. For non-emergency car repairs, the employee should have the vendor bill the program directly.

Taxis and Shuttles

Taxis and shuttles should be used for trips within a reasonable distance (10 to 15 miles). Reimbursement can be made on a [TEC](#) for the actual cost of the expense with a receipt, or for no more than \$10 without a receipt. General Service charge cards are accepted for taxis and shuttle services within the Sacramento and Fresno areas. **Tips or gratuities to drivers are reimbursable up to \$2.00 or 20% whichever is greater.** Tips or gratuities for exceptional services, such as loading and/or unloading substantial luggage or multiple exam material, is allowable with written justification and receipt.

Uber and Lyft

Per [CalHR PML2015-039, Assembly Bill 229 \(Stats. 2015, ch. 770\)](#), effective January 1, 2016 through December 31, 2018, Uber and Lyft are acceptable State travel modes of transportation. An original detailed receipt is required to be attached to the claim for reimbursement. (See [PML 2015-039](#).) **See above for changes on Tips.**

Zipcars are not authorized for use as State travel transportation.

Parking and Tolls ([SAM section 0755](#))

Parking and tolls in excess of \$10 require a receipt and may be paid for:

- Day parking when the trip is away from the headquarters office and residence.
- Overnight public parking when the traveler is on travel status.
- Callback or scheduled overtime on a normal day off.

Commuting Transit and Vanpool

Employees who commute to and from work via public transportation or qualifying vanpools may be eligible for up to a 75-percent discount or reimbursement on public transit passes up to a maximum reimbursement of \$100 per month for SEIU bargaining units 1, 2, 3, 4, 9,11, 12,14, 15, 17, 20, 21, effective November 1, 2019. Bargaining 2 & 12 effective August 18, 2021. For Excluded employees effective date is February 1, 2020. Reimbursement is based on actual cost supported by a receipt or proof of purchase. For more information, visit the CalHR webpage for [Miscellaneous Programs](#) related to State Employees, Benefits, and Compensation Plus.

Part-time employees' reimbursement may be prorated to correspond to their appropriate work schedule. Daily passes may be utilized for part-time employee reimbursement.

The State will pay \$135 per month to the primary driver of a qualifying vanpool consisting of 7 to 15 people in lieu of the vanpool/transit rider incentive for the bargaining units listed above. A qualifying vanpool must meet both IRS section 132 and CalHR 599.936 criteria. (See CalHR webpage for [Miscellaneous Programs](#).)

CHAPTER 4. BUSINESS EXPENSES AND RECEIPTS.

Business Expenses

Business expenses are costs that are necessary for the completion of State business.

Examples:

- Phone calls more than \$1 or calls totaling more than \$5. The Department phone log can be used for logging calls when there is no official receipt provided (See “Justification for Reimbursement for Telephone Charges” in the Appendix).
- Approved training request for all courses provided by outside vendors/entities and in-State conferences and conventions. Reimbursement for training classes will be processed after completion of the training class.
- When physical examinations are required for pre-employment or as a condition of employment, the State will provide or pay for them. The applicant must pay for any services beyond the approved level for such services. For information on the current rate, see Employee Physical Exams, [SAM section 0191](#).
- Excessive porter or baggage handling, such as for several boxes of exam materials, will be reimbursed with a receipt and justification.
- Professional licenses in occupational fields that may be required by the functions of a specific position or is beneficial to the performance of an employee's duties, for actual cost of the application or renewal fee.
- Each department, commission, board, or agency may reimburse an employee for up to the maximum allowed per BU Contract for membership dues in job-related professional societies or associations of the employee's choice or for a job-related professional license fee, in recognition of the professional nature of employees. Both parties agree and understand that a different amount of reimbursement, if any, may be provided to employees in the same or similar situation.

- State Bar Dues – [CalHR Rule 599.921](#)
 - Employee designation: Manager, supervisor, confidential, and excluded.
 - References: [2022 Bar Membership Dues](#) . Upon certification by the appointing power that the actual practice of law is required for the performance of duties of a specific position, employees shall be reimbursed for up to \$463 of the State Bar membership fee of \$515 for the cost of annual membership fees and specialty fees of the State Bar Association.
 - The State does not pay:
 - The \$5 contribution for the Legislative Activity option, line 21 of the State Bar coupon.
 - The \$45 contribution for the Legal Services Assistance option, line 23 of the State Bar coupon.
 - The \$2 contribution for the Elimination of Bias option, line 22 of the State Bar coupon.
 - Optional Donations for Access to Justice, California Bar Foundation, Conference for California Bar Associations, or California Supreme Court Historical Society; or
 - Penalties resulting from late payment of dues, unless the State is responsible for the late payment.

Valid Receipts

A valid receipt consists of the establishment’s name, address, itemized expenses, including the total amount due and method of payment. When submitting a [TEC](#), the claimant is required to include original, itemized receipts for all State business expenses, unless specifically noted and accepted in another section of this Guide.

Reimbursement requires proof of payment by the employee. If the receipt does not show the employee paid for the expense, attach other viable information such as the canceled check, bank, or credit card statement. For security purposes, blacken out all nonrelated charges and only retain the employee’s name, bank name, and the specific charge you are claiming.

Required Receipts

Receipts shall be submitted for every item of expense of \$1 or more, except as noted in this chapter.

DCA policy is for all receipts to be attached to the [TEC](#), whether paid directly to the vendor or establishment by the State or paid by the employee. Examples are airline itineraries, final rental car expense receipts, etc.

Receipts Not Required

The employee must retain copies of all receipts, including those original receipts not required for reimbursement by the Department, for IRS purposes.

Receipts are NOT required for reimbursement of actual expenses as a result of conducting State business for the following expenses:

- Per diem meals and incidentals,
- Overtime meals,
- Up to the published railroad and bus fares of less than \$10 when travel is within the State, and
- Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi shuttle or hotel bus fares, and parking fees of \$10 or less for each continuous period of parking or each separate transportation expense.

Lost Receipts

In the absence of a receipt, reimbursement will be limited to the nonreceipted amount or the published expense, when lower than the nonreceipted amount.

Odd-Size Receipts

If receipts are small, tape them to an 8 ½-inch x 11-inch sheet of paper so they will be the same size as the travel claim. More than one receipt can be on a sheet of paper if they do not overlap. Do not tape the receipts to both sides of the paper.

Chapter 5. Reportable Tax Items.

Introduction

Various reimbursements of State business expenses and fringe benefits are subject to Federal and State income taxes and applicable Social Security and Medicare taxes. The Department is required to report qualifying business expense reimbursements as income to the State Controller's Office each month.

Note: It is the State and Department’s policy to adhere to all IRS reporting requirements.

Reportable Items

The following items are the most common reportable employer-provided benefits

- Overtime meals;
- Callback mileage, including overtime mileage;
- Bicycle Commuter Program
- Meals on a one-day trip where there is no sleep period;
- Department-approved exceptions to the 50 miles travel status radius rule;
- Long-term assignments that exceed 30 consecutive days at one location for a period of more than one year. Contact the DCA Travel Unit for details when appropriate;
- The personal use of State vehicles for commute miles;
- Personal use of a State-provided electronic device;
- Travel advances that are not cleared within 30 days of the travel date; and
- Relocation: Contact the DCA Travel Unit (calaters@dca.ca.gov) for details when appropriate.

Note: Any nonreceipted expense, such as meals and incidentals, becomes reportable *if* the IRS conducts an audit and finds no receipts in the employee’s file.

Reportable Withholdings

Below is a grid showing the percentages of taxes withheld from each agency, along with an example of the withholdings based on a \$66 reporting item. The actual total amount withheld from the \$66 item is \$24.72 for a represented employee. This amount would be deducted from the employee’s next available pay warrant.

Percentages of Taxes Withheld by Agency
(includes example withholdings based on a \$66 reporting item)

Type of Tax (W-2s)	Withholding Rate	Monthly Value	Actual Withholding
Federal	22.0%	\$66	\$14.52
State	6.6%	\$66	\$4.36
* SSI	6.2 %	\$66	\$4.10
Medicare	1.45 %	\$66	\$0.96
** SDI	1.2%	\$66	\$0.66

*Supplemental Security Income: Not applicable to Safety or Peace Officer Retirement.

**State Disability Insurance: Applicable to Service Employees International Union (SEIU)-represented employees only. (See [Payroll Procedure Manual \(PPM\) Withholding Requirements section N171](#) for most recent rates.)

The reportable reimbursements will be listed under “Other Income,” or will be noted as “Included in Box 1” on the employee’s W-2 form.

It is the employee’s responsibility to maintain all reportable receipts with their records for IRS audit purposes.

Capturing Reportable Items

There are many ways of capturing and reporting reportable items each month.

Examples:

- Overtime meals, callback mileage, and meals on a one-day trip are captured at the time of the [TEC](#) audit, and reimbursement is made.
- Department-approved exemptions to the “50 miles travel status radius” rule and long-term assignments that exceed 30 consecutive days are captured at the time that paperwork is submitted for approval to the Executive Office and the reimbursement of the [TEC](#) is made.
- Reporting personal mileage and/or use of a State vehicle is the responsibility of the employee. The IRS has determined that normal commute miles to and from work in a State vehicle are to be considered personal use. Only employees whose primary responsibilities are investigative law enforcement activities while they are performing law enforcement duties fit the IRS guidelines for exemption from reporting personal use of State vehicles. However, when these employees commute to and from the office for their office days or do not perform qualifying law enforcement activities on the way to or from work, the commute is reportable. All other employees who are permanently or temporarily assigned State vehicles must report personal use and/or their normal commute use. Each employee who drives a State vehicle is required to submit a monthly Employee Certification, Personal Use of State Provided Vehicles Form, [Personal Use of](#)

[State-Provided Vehicle](#) to the DCA Accounting Office by the fifth day of the following month in which the personal use was incurred. Please note, this requirement applies to all employees who drive a State vehicle; it is not limited to those employees whose assigned cars are stored at home or in off-site parking.

- Reporting personal use of a State-provided electronic device is the responsibility of the employee. Each employee who uses State-provided equipment for any personal use should prepare a memo stating the type of usage and the actual or estimated cost of the usage to be reported. To avoid the reporting of this type of fringe benefit, the employee can submit a personal check with the memo to reimburse the Department for their personal use.
- All travel advances are to be temporary. Any outstanding travel advances over 90 days are considered long-term and should be treated as wages or compensation; therefore, reported as taxable income.
- Reporting “relocation” taxable items varies depending on the type of expenses that occur; i.e., moving of household goods, sale of residence, etc. For actual reporting requirements, contact the DCA Accounting Office’s Travel Unit (calaters@dca.ca.gov) for details.
- Continuing Medical Education (CME) expense reimbursement is a taxable fringe benefit for part time, full time, and intermittent BU 16 represented employees. CME expense reimbursement has been considered a taxable fringe benefit by the IRS since the program was established by the CalHR and BU 16 representatives. This program does not meet the criteria to be non-taxable business expenses under Internal Revenue Code section 127. All reimbursements made under this program will be issued in advance as payroll checks near the beginning of each fiscal year.

Chapter 6. Out-of-State, Out-of-Country, and Amended Claims.

Introduction

There are additional requirements and/or approvals when filing out-of-State, out-of-country, or amended [TECs](#).

Out-of-State Travel (OST)

Before any State employee may travel out-of-State on official State business, specific written approval must be given by the Director, the Agency Secretary, the Department of Finance, and the Governor’s Office. (See [SAM section 0710](#).)

Approval must be obtained if either one of the following conditions exist:

1. The employee is on State time, or
2. The employee is representing the State in an official capacity or is acting in such a capacity that it will be perceived that he or she is representing the State.

If either of these two criteria exist, approval is necessary regardless of whether the State is paying for the employee's travel expenses. The trips are limited to the approved number of persons, days, and funds as specified for each blanket request. Expenses exceeding the blanket limits will require an approved blanket substitution request to cover the overages prior to travel. Any cost incurred prior to the blanket approval will be at the employee's own expense.

OST expenses must be submitted separately from in-State travel and note the approved blanket number on the claim. Actual lodging expense, supported by a receipt and the standard meal and incidental reimbursement, may be claimed for travel outside of California. Contact the DCA Budget (go to [DCA home page](#), under Office of Administrative Services) or Accounting Office (calaters@dca.ca.gov) if you do not know the blanket number or require additional information. Refer to [SAM 0760-0765](#).

Out-of-Country Travel

Employees will be reimbursed for actual lodging expenses, supported by a receipt, and will be reimbursed for actual meal and incidental expenses subject to maximum rates in accordance with the published government rates for foreign travel for the dates of travel. Failure to furnish lodging receipts will limit reimbursement to meals only. The government rates change monthly. (See CalHR webpage for [Travel Reimbursements](#) for current reimbursement rates.)

There is no allowance for blanket substitution of funds or authority for out-of-country trips. Any expenses that exceed the individual trip authority or funds will be at the traveler's expense. Claims must be submitted separately with the approved individual out-of-country trip request number written on the claim. Contact the DCA Budget Office if you do not know the trip number or require additional information.

Amended Claims

When filing an amended claim, the following steps should be taken:

1. Submit a new claim.
2. Write "AMENDED CLAIM" in uppercase letters at the top of the claim.
3. Claim only the amount not submitted on the original claim.
4. Attach a copy of the original claim to the new claim.

5. Attach any required information, receipts, or justification not submitted with the original claim.
6. Obtain all required approval signatures and submit the claim to Accounting Office Travel Unit for payment.

Chapter 7. Travel and Evidence Advances.

Travel Advances

Short-term advances may be issued prior to the time travel is performed, to employees who must travel on State business. (See [SAM 8116](#).)

- Submit the travel advance request on CalATERS Global. In the event of non-access to CalATERS Global, please complete the [Request for Travel Advance \(AISD-008\)](#) form and send it to the DCA Accounting Office within 10 to 15 working days prior to the date of travel. Original signatures are required.
- Per the Governor's order, all departments are to keep outstanding travel advance balances (accounts receivables) to a minimum. Because of this order, DCA has limited travel advance amounts to lodging, meals, and airport parking that are fixed expenses to keep the outstanding receivables amount at a minimum. The employee will receive reimbursement for other expenses after the processing of their [TEC](#).
- If the trip is canceled, the advance must be returned immediately to the Accounting Office. If the travel advance check is cashed, a personal check or cashiers must be submitted as payment.
- For employees who are not required to travel on more than one trip per month, additional advances will not be issued for future travel unless the outstanding advances have been cleared. Departments may issue additional travel advances for employees who are required to travel on multiple trips within a month. Additional advances will not be allowed if the employee does not submit a [TEC](#) or return the excess advance amount within ten days of each trip.
- All advances must be cleared by submitting a [TEC](#) within 10 days after the date of travel. If the advance exceeds the expense claim, to clear the advance, the employee must submit a check with the claim, money order payable to DCA, or cash for the difference. If the claim exceeds the advance, the employee will receive the balance due to them by check within 10 to 15 working days.

- Add a notation regarding the advance information in section 11 or in the Note Section on CalATERS Global of the [TEC](#). (Example: March travel advance \$200.) Do not deduct the advance amount from your claim total; the auditor will make the adjustment when the claim is processed for payment.
- Any outstanding advances of more than 15 days may be deducted from your next month's pay warrant per [SAM 8116.1](#). The DCA Accounting Office will notify the employee before this process occurs. The notification letter will allow the employee time to clear the advance balance. Failure to clear advances may preclude future advances being issued until the outstanding advances are cleared. Direct deposit will be canceled for those employees with uncleared balances to collect any advance balances not cleared within a reasonable time.
- Travel advances that are not cleared within 15 days must be reported as taxable income. (See [SAM 8116.3](#).) Taxes due will be withheld from the next available payroll warrant and reported as taxable income on the employee's W-2. When the advance is cleared, there is no method to refund the withheld taxes to the employee.
- Some restrictions apply to seasonal or part-time employees, including board and committee members, who may not be issued travel advances. Exception requests are granted by approval of the Chief Accounting Officer on a limited basis.

Chapter 8. Filing Requirements.

Claim Form and Correction Instructions

All Travel Expense Claims must be submitted on the CalATERS Global System. A [CalATERS Global Training Request](#) form should be completed and sent as an attachment to CalATERS@dca.ca.gov to establish a CalATERS Global User ID and temporary password. There are two types of claims that can be submitted on the CalATERS Global System.

1. Regular TEC—Only one trip per claim should be entered on a Regular TEC. These claims consist of per diem, lodging, and mode of transportation cost to and from destinations. Expense reimbursements are determined by the date and time the trip started and/or ended. Therefore, this information must be entered for each trip. If a traveler traveled on more than one trip, each trip must be entered on a separate claim. The claim will be returned to the traveler or travel liaison for correction if more than one trip is entered on this type of claim.
2. Non-Travel Expense Claim—Consists of multiple days and months, up to a full fiscal year (July 1, 2021 through June 30, 2022). These claims consist of only parking, mileage, airfare, rental car, gas for rental car, business expenses, training, etc. This claim would not include meals, incidentals, or lodging. Please

make sure when submitting this type of claim the amount is \$10 or more for budget and department cost efficiency.

The CalATERS Global TEC Transmittal should have the proper report name, index number, month and year of travel, original signature of the approver, dates, times, amounts, mode of transportation, purpose, normal work hours, etc. Original detailed receipts showing proof of payment and justifications, when necessary, are required documentation for the claim. The original CalATERS Global TEC and required receipts should be sent to the Accounts Payable, Travel Unit for processing.

In the event the employee is new to the Department and does not have a CalATERS Global User ID established, a [TEC](#) can be completed to submit their first request for reimbursement of State-related travel expenses. The original and one legible copy should be submitted to the Accounts Payable, Travel Unit for processing. Keep a third copy for your records with any non-required original receipts. All TEC forms should be completed in ink or typewritten. The original signature of the claimant and the approving officer are required to be completed in ink in the appropriate area of the form. For minor corrections, line-out the incorrect information and write in the corrected information. The claimant must initial all corrections. Travel claims with correction fluid or correction tape in critical areas of the form affecting the reimbursement amount will not be accepted. Travel claims may be returned as auditable if submitted with numerous changes or if it is difficult to read.

When to Submit Travel Expense Claims

TECs should be filed at least once a month, but not more than twice in one month. If the amount claimed for any one month does not exceed \$10, filing can be deferred until the next month's travel or until June 30, whichever comes first. Several trips may be entered on one TEC. Only one Regular Trip at a time can be submitted on CalATERS Global. When more than one trip is being listed on the TEC, a blank line should be left between each trip. Trips that start at the end of one month and extend into the next month should be submitted after the trip has concluded. Although it is acceptable to put several trips on one claim, the following expenses must be submitted on a separate TEC: Out of State, out of country, long-term assignment, evidence and relocation expenses. Please label the TEC header when filing reimbursement claims for other than short-term travel.

All claims for the current fiscal year must be submitted by the published year-end deadline. Do not combine fiscal years. If a trip overlaps June and July, two separate TEC or CalATERS Global claims must be completed and submitted, one for each month. However, they should be submitted together for audit purposes.

Required Information

The TEC must be completed in its entirety, including heading, dates, time, amounts, mode of transportation, purpose, normal work hours, etc., and have the claimant's and the authorized approving officer's original signatures. Itemized expenses and original receipts showing proof of payment and justifications, when necessary, are required

documentation for the claim. The original TEC and required receipts should be sent to the Accounts Payable/Travel Unit for processing.

Chapter 9. Completing a Travel Expense Claim.

Introduction

The [TEC](#) requires various information, including employee information, trip information, reimbursement amounts, authorizations, and justifications be provided. This chapter provides a step-by-step description of what is required to complete a [TEC](#).

Employee Information

This information describes to whom, classification, bargaining unit, and where expenses should be charged.

Field	Enter Into Field
Claimant's Name	First name, middle initial, last name
Social Security Number or Employee Number*	13-digit position number or write "on file"
Department	Department of Consumer Affairs
Position	Civil service classification (title)
CB/ID Number	Bargaining unit number for represented employees OR Confidential, exempt, board/committee member, volunteer, or other specific title
Division or Bureau	Board, committee, program, division, or unit name
Index Number	Index/PCA number (contact the DCA Accounting Office for assistance if you do not know your Index/PCA number)
Residence Address* (including city, state, and ZIP code)	Home address (do not use P.O. Box) <i>If confidential, contact the DCA Accounting Office for guidance.</i>
Headquarters Address (city, state, and ZIP code)	Complete headquarters (work) address
Phone Number	Office phone number (include area code)

* Refers to the Privacy Statement provided on the reverse side of the form.

Trip Information, Miscellaneous Information and Justifications, and Authorized Signatures

This section requests information regarding the when, where, and why the expenses occurred.

Field	Enter into Field																		
1	Normal Work Hours: Use the 24-hour clock																		
2	Private Vehicle License Number: Enter the license number of the private vehicle used on State business																		
3	Mileage Rate Claimed: Enter the rate claimed for private vehicle use																		
4	Month/Year: Month number (January = 1, December = 12) and four-digit																		
5	Date: Day of the month (one day per line) Time: Departure and return (using the 24-hour clock)																		
6	Location Where Expenses Were Incurred: (A brief statement describing the purpose may be entered immediately below the last entry for each trip.)																		
7	Lodging: Enter actual cost of lodging, plus tax (up to the maximum																		
8	Meals: Enter actual cost of meals (up to the maximum reimbursement)																		
9	Incidentals: Enter actual cost of incidentals (up to the maximum																		
10 (A)	Transportation: Enter the cost of transportation, if paid by employee																		
10 (B)	Transportation: Enter the method of transportation, using the following codes: <table border="1" data-bbox="503 1176 1494 1522"> <thead> <tr> <th>Type</th> <th>Code</th> </tr> </thead> <tbody> <tr> <td>Railway</td> <td>R</td> </tr> <tr> <td>Bus, air porter, light rail, Bay Area Rapid Transit (BART)</td> <td>B</td> </tr> <tr> <td>Commercial airline</td> <td>A</td> </tr> <tr> <td>Privately owned vehicle (motorcycles not allowed)</td> <td>PC</td> </tr> <tr> <td>Private air</td> <td>PA</td> </tr> <tr> <td>State car</td> <td>SC</td> </tr> <tr> <td>Rental car</td> <td>RC</td> </tr> <tr> <td>Taxi</td> <td>T</td> </tr> </tbody> </table>	Type	Code	Railway	R	Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B	Commercial airline	A	Privately owned vehicle (motorcycles not allowed)	PC	Private air	PA	State car	SC	Rental car	RC	Taxi	T
Type	Code																		
Railway	R																		
Bus, air porter, light rail, Bay Area Rapid Transit (BART)	B																		
Commercial airline	A																		
Privately owned vehicle (motorcycles not allowed)	PC																		
Private air	PA																		
State car	SC																		
Rental car	RC																		
Taxi	T																		
10 (C)	Transportation: Enter carfare, bridge road tolls, or parking expenses																		
10 (D)	Transportation: Enter the number of miles driven with private and State vehicles, and then enter the amount due for private vehicles																		
11	Business Expense: Enter any other expenses necessary for completion of State business, with justification as required. <u>Note:</u> Expenses more than \$25 require Office of Administrative Services authorization. The DCA Accounting Office will obtain signatures.																		
12	Total Expenses for Day: Enter the total expenses for that day																		
13	Subtotals: Enter the total expenses for each column																		

14	<p>Purpose of Trip, Remarks, and Details: Enter the justification and miscellaneous information, such as:</p> <ul style="list-style-type: none"> Explanation of business expenses Phone expenses, including place, party, and number called Receipt justification, if needed Justification for obtaining rental cars, other than a compact, or use of a noncontract vendor Travel advances received
----	---

Appendix

Resource Materials

Subject	Issue Date	Ex	Num
Short-Term Lodging Reimbursement Rates—Maximum Rates for All Represented and Excluded Employees	10/20/2016		Short-Term Lodging Reimbursement Rates
Approval of Excess Lodging Rates	12/19/2013		PML 2013-044 4.pdf
FLSA Guidelines	04/16/2004		DCA DPM-PERS 02-06 http://inside.dca.ca.gov/documents/dpm_hr_02_06.pdf
Travel and Relocation—Lodging Receipts	07/01/2014		www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx CalHR PML 2013-022 www.calhr.ca.gov/travel-reimbursements Library/2013026.pdf

Vanpool Incentives	7/23/2019		CalHR Commute Programs
	09/27/2002		CalHR PML 2002-064 http://www.dot.ca.gov/hq/asc/travel/pdf/PML2002-064.pdf CalHR PML 2002-021

The list below includes memos, policies, procedures, and websites with information regarding travel reimbursement rules and regulations.

Useful Websites and Addresses

Useful Websites	Internet Addresses
Department of General Services State Administrative Manual Forms	www.dgs.ca.gov http://sam.dgs.ca.gov/TOC/700.aspx www.dgs.ca.gov/osp/Forms.aspx
California Department of Human Resources Bargaining Unit Contracts Personnel Management Letters (PMLs)	https://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx www.calhr.ca.gov/Pages/home.aspx
Travel Agency	Caltravelstore

List of Related Forms

The travel forms mentioned in this Travel Guide are available on the [Department of Consumer Affairs\(DCA\) Intranet](#) at <http://inside.dca.ca.gov/offices/accounting/travel.shtml> and in this Appendix.

Form	Number	DCA Intranet and/or Internet Links
Authorization to Use Privately Owned Vehicles on State Business	STD 261	www.documents.dgs.ca.gov/dgs/fmc/pdf/std261.pdf
Cost Comparison Page	N/A	http://inside.dca.ca.gov/documents/cost_comparison.pdf

Excess Lodging Rate Request/Approval	STD 255C	https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std255c.pdf
Conference Attendance Request	N/A	http://inside.dca.ca.gov/documents/conf_attend.pdf
Hotel/Motel Transient Occupancy Tax Waiver	STD 236	www.documents.dgs.ca.gov/dgs/fmc/pdf/std236.pdf
Justification for Reimbursement for Postage Charges	AISD 12	http://inside.dca.ca.gov/documents/postal_charges.pdf
Justification for Reimbursement for Telephone Charges	AISD 11	http://inside.dca.ca.gov/documents/phone_charges.pdf
Request for Travel Advance	AISD 008	http://inside.dca.ca.gov/documents/travel_advance.pdf
Travel Advances and Travel Expenses Policy	SAM Ch. 8100	SAM Section 8116 Travel Advances and Travel Expenses
Travel Expense Claim	STD 262a	http://inside.dca.ca.gov/documents/std262a.pdf



MEMORANDUM

DATE	February 10, 2023
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Agenda Item 10: Legislative Report: Update, Review, and Possible Action on Proposed Legislation

a. Legislative Calendar and Deadlines

- February 17, 2023 – Last day for bills to be introduced
- May 5, 2023 – Last day for policy committees to hear bills introduced in the house of origin
- May 19, 2023 – Last day for fiscal committees to hear bills introduced in the house of origin

b. 2022 Legislation Implementation Updates

- **AB 107 (Salas, Chapter 693, Statutes of 2021) Licensure: veterans and military spouses**

Board Staff are working with the DCA Office of Information Systems to implement changes to the Board’s IT systems to create temporary license codes for all applicable license types that must have a temporary license issued within 30 days for military spouses currently licensed in another state.

- **AB 2686 (Berman, Chapter 415, Statutes of 2022) Speech-language pathologists, audiologists, and hearing aid dispensers**

The legislative mandate for a specified membership and size of the Hearing Aid Dispensing Committee has been removed. Instead, the Board Chair has authority to appoint a standing committee related to hearing aid dispensers and/or hearing aid dispensing at their discretion.

The audiologist application for applicants holding a valid American Board of Audiology certificate is available online. Board Staff also plan to develop and

implement the speech-language pathology and audiology aide renewal process in the summer of 2023.

Additionally, the requirement for applicants and licensees to provide their email address to the Board becomes effective July 1, 2023. Board Staff will be developing a form for applicants and licensees to change their email address on file with the Board.

- **SB 1237 (Newman, Chapter 386, Statutes of 2022) Licenses: military service**

Board Staff have determined that the Board's current IT system does not allow for an automated process for waiving renewal fees and continuing education requirements for individuals on duty in the California National Guard or on active duty in the United States Armed Forces. Instead, the Board will implement a manual process for military licensees who qualify for this waiver.

- **SB 1453 (Ochoa Bogh, Chapter 450, Statutes of 2022) regarding Speech language pathologists**

Board Staff have received inquiries from licensees regarding a "grandfathering clause" for the written verification from one otolaryngologist that the speech-language pathologist performed 25 supervised FEES procedures, including 10 procedures supervised by a licensed physician who performs nasal endoscopy as part of their practice and 15 procedures supervised by *either* a licensed physician who performs nasal endoscopy as part of their practice *or* another licensed speech-language pathologist verified as competent in performing the FEES procedure. The DCA Legal Office has determined that the current law does not include a "grandfathering clause" and a speech-language pathologist performing the FEES procedure after January 1, 2023 must have a written verification that meets the current requirements in Business and Professions Code section 2530.2.

Additionally, Board Staff are aware that the American Academy of Otolaryngology and the California Medical Association have concerns regarding the recent legislative changes in SB 1453, specifically regarding expanding authority to other licensed physicians who perform nasal endoscopy to supervise speech-language pathologists learning to perform the FEES procedure in order to obtain their written verification. Board Staff anticipate there will be additional legislative changes to address the concerns regarding the recent changes in SB 1453 (Ochoa Bogh).

c. 2023 Board-Sponsored Legislation

- **Omnibus Proposal – Gender Neutral Language in the Board's Practice Act**

Status:

Board Staff are anticipating this legislative proposal will be included in the Business and Professions Committee omnibus bill.

Summary:

This legislative proposal would remove the gendered pronouns “he” or “she” from provisions of state law within the Board’s Practice Act. Instead, this proposal would revise the Practice Act with inclusive language by using gender-neutral pronouns or using nouns to avoid the use of gendered pronouns.

d. 2023 Bills with Recommended Watch Status

- **AB 381 (Rubio) Teacher credentialing: services credential with a specialization in health: occupational and physical therapists**

Status:

This bill may be heard in policy committee on or after March 2nd.

Summary:

This bill would amend the Education Code to allow occupational therapists and physical therapists to qualify for a health services credential issued by the Commission on Teacher Credentialing. Currently, services provided in a school setting by an audiometrist, occupational therapist, or physical therapist are not considered health services. This bill would still deem that services provided by an audiometrist are not health services.

- **SB 259 (Seyarto) Reports submitted to legislative committees**

Status:

This bill may be heard in policy committee on or after March 5th.

Summary:

This bill would require state agencies to post on its website any report submitted to the Legislature such as a study, audit, or report identified in the Legislative Analyst’s Supplemental Report of the Budget Act.



MEMORANDUM

DATE	February 15, 2023
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 12: 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
------------------------	------------------------------	----------------------------	-----------------------------	---------------------------	-------------------------------	------------------------------	---------------------------	------------------------------	--------------

This regulatory proposal is in the Public Comment Period phase and requires review and approval by the Board. See the separate memo for this regulatory proposal.

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. This regulatory proposal was submitted to OAL for review on December 29, 2022. It was approved by OAL on February 13, 2023, and filed with Secretary of State. These regulations become effective on April 1, 2023.

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
------------------------	------------------------------	----------------------------	-----------------------------	---------------------------	-------------------------------	------------------------------	---------------------------	------------------------------	--------------

The Board approved revisions to the regulatory language on October 8, 2021. This regulatory proposal was submitted to OAL for review on December 29, 2022. It was approved by OAL on February 13, 2023, and filed with Secretary of State. These regulations become effective on April 1, 2023.

This proposed change will permit RPE tele-supervision and establish requirements for the use of tele-supervision.

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 and working with the DCA Budgets Office to develop the Economic and Fiscal Impact Statement.

This proposed change will update the practical examination process, describe 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 submitted the required regulatory documents for DCA pre-review on January 31, 2023, and are working with the DCA Legal on preparing the required regulatory documents for Initial Departmental Review.

This proposed change will clarify the definition to self-study, increase the number of allowed hours 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
------------------------	------------------------------	----------------------------	-----------------------------	---------------------------	-------------------------------	------------------------------	---------------------------	------------------------------	--------------

The Board approved regulatory language on February 25, 2022. This regulatory proposal was submitted to OAL for review on December 23, 2022. It was approved by OAL on February 6, 2023, and filed with Secretary of State. These regulations become effective on April 1, 2023.

This regulation will require licensees to provide notice that they are licensed and regulated by this Board.

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, and 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 as stated in Title 16, 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.

The proposed change will increase the number of hours that may be obtained in related or indirect client care courses; permit other opportunities to fulfil CE requirements; and align these regulations with continual professional learning requirements this Board has for licensees in the practices of speech-language pathology and audiology under Article 11 of Division 13.4.

i) 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
------------------------	------------------------------	----------------------------	-----------------------------	---------------------------	-------------------------------	------------------------------	---------------------------	------------------------------	--------------

This regulatory proposal is in the Finalizing Regulatory Package phase and requires review and approval by the Board. See the separate memo for this regulatory proposal.

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.



MEMORANDUM

DATE	February 1, 2023
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 12(a): Discussion and Possible Action to Modify 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

Background

This proposed regulatory change will permit tele supervision of speech-language pathology assistants (SLPAs), 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.

The 45-day public comment period began on November 11, 2022, and ended on December 27, 2022. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) did not hold a public hearing for this proposed regulatory action nor was one requested from any interested person or their authorized representative.

The Board received twenty-one (21) written comments during the initial 45-day comment period.

- Four (4) in support,
- Fifteen (15) expressed concerns with the proposed regulatory changes or recommended changes,
- One (1) inquired on the regulatory process, and
- One (1) was not related to the proposed regulatory changes.

Staff recommends the Board accommodate some of the written comments by making modifications to the proposed regulatory language. The proposed changes modifying the text will need to be sent out for an additional 15-day public comment period. Board staff expect to receive comments during the 15-day public comment period in

response to the proposed modified text. The comments received during the 45-day comment period are not summarized in this memo, as staff will summarize and prepare responses to comments to both the 45-day public comments and the 15-day public comments at the next Board meeting. Set out below for the Board's review and discussion are:

- Proposed changes, yellow-highlighted in the attached proposed modified text,
- Additional recommended changes not made to the text (awaiting Board direction),
- Additional recommended text changes that staff proposes the Board reject.

Summary of Changes

The proposed changes to the regulatory text are indicated by double-strikeout and double underlining and highlighted in yellow on the modified text document attached and include the following:

- Amend section 1399.170.2(d) and 1399.170.15(b)(4) to require the supervision to be “direct supervision that is on-site observation and guidance” and not “immediate.”

Immediate supervision may be burdensome for speech-language pathologists supervising more than one (1) newly licensed SLPA and may negatively impact consumers' access to care. However, as stated in the Initial Statement of Reasons (ISOR), this requirement ensures that newly licensed SLPAs receive adequate supervision. This is because a SLPA may be permanently employed in a work setting different from the one in which they completed their field work experience. By requiring this time period and amount of supervision, it provides the supervisor the opportunity to monitor and evaluate the SLPA's ability to provide services appropriate to the work setting and clients/patients being treated before allowing the SLPA to provide those services independently. Furthermore, it ensures that the supervisor can quickly intervene to correct any actions that could cause harm to a client/patient. For this reason, it is necessary to modify the text to specify that this supervision during this time period is in-person.

- Amend section 1399.170.15(b) to clarify when a supervisor must meet the requirements to supervise a SLPA.

The existing language required clarification. As currently written, all supervisors will have to meet all the requirements in section 1399.170.15 in order to supervise or continue supervision. By modifying the language, the requirements will apply to supervision forms submitted to the Board on and after the regulation's effective date.

- Amend section 1399.170.15.(b)(3) to clarify stated requirements for supervising when providing services via a telehealth model.

The existing language lacks clarity in regards to the tele supervision work model. Replacing the term “site(s)” with the phrase “ assigned service setting(s)” will include the various settings that are found in a tele supervision work model.

- Amend section 1399.170.15(b)(5) to specify that the professional development required to supervise must be completed prior to “assuming responsibility as a supervisor.”

The existing language required clarification. As currently written, a supervisor will have to complete six (6) hours of continuing professional development in supervision training for every new supervisee. By modifying the language, the requirements will apply only to those supervising a SLPA for the first time.

- Amend section 1399.170.15(c) to specify that the copy of the form provided to the SLPA is “completed”.

This enhances clarity as to the type of documentation that the supervisor must provide to their assistant. The SLPA should receive a copy of the form they completed with the supervisor and not a blank or incomplete form.

- Amend sections 1399.170.15(c) and 1399.170.17 to revise the prefix, number, and revision date of the “Responsibility Statement for Supervisors of a SLPA” form.

Because the form is being revised to reflect changes made by the modified text, the revision date is being updated. The form prefix and number are also being changed to comply with the State Forms Management Program as required by Government Code Section 14771.

- Amend 1399.170.18 to include an updated termination form, and require supervisors provide a “completed” version of the form to the SLPA.

The form incorporated by reference in the existing text is outdated. Updating this information will increase transparency of the process to terminate supervision. Because the form applies to supervision for other license types, the Board identifies all the information it collects on the form as it relates to SLPA supervision in the regulatory language.

The Board requires a written notification because the Board needs consent from licensees to make changes to their license records and accurately make changes to publicly available information. Updated license records are important to keep the public using the license search online database informed of licensees who supervise or need a supervisor in order to provide services. Requiring the written notification to include the SLPA’s full legal name and

license number allows the Board to accurately associate the information with their license record. For this same reason, the Board collects the supervisor's full legal name and license or credential number. The Board also collects the supervisor's address and telephone number in the event it needs to communicate with or send correspondence to the supervisor. The Board requires a termination effective date to ensure that a supervisor does not exceed the maximum number of support personnel as stated in section 1399.170.16. Requiring that the termination notice be signed under penalty of perjury holds licensees responsible for the information provided to the Board. The Board has the ability to take discipline or enforcement action against licensees who commit a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee (BPC section 2533.)

- Amend the application to collect information regarding the SLPA's employment status and align with changes made by the modified text.

The Board will need to collect information regarding the SLPA employment status to ensure that a supervisor does not exceed the maximum number of support personnel as stated in section 1399.170.16. Without this information, the Board will be unable to verify and approve the supervision. Other changes were made to align with changes made by the modified text.

Recommendations for Discussion

Staff is seeking Board discussion and guidance regarding written comments suggesting amendments to the requirement regarding the 20 percent immediate supervision of all duties for the first 90 days of initial licensure to align with American Speech-Language-Hearing Association (ASHA). ASHA's guidelines are:

1. *"Before the SLPA begins to provide support independently, the supervising SLP must have first contact with all individuals on the caseload. 'First contact' includes establishing rapport, gathering baseline data, and securing other necessary documentation to begin (or continue) the plan of care for the student, patient, or client."*
2. *"As the Speech Language Pathology/SLPA team dynamic continues to develop beyond the initial onboarding, minimum ongoing supervision must always include documentation of direct supervision provided by the Speech-Language Pathologist (SLP) for each student, patient, or client at least every 30-60 days (depending on frequency of visits/sessions and setting)."*

Sections 1399.170.2(d) and 1399.170.15(b)(4) addresses the initial onboarding supervision for newly licensed SLPA but not the frequency or amount of supervision beyond this period.

Staff recommend the Board discuss and determine whether or not to make changes to

the proposed modified text to accommodate these comments.

Recommendations Rejected

Staff recommend the Board to not make changes to the proposed regulatory text to accommodate the following comments:

- Amend section 1399.15(a) to replace the deleted language with the suggested language from ASHA's SLPA Scope of Practice: *"Supervision requirements may vary based on a variety of factors. The amount and type of supervision required must be consistent with (a) the SLPA's skills and experience; the needs of the students, patients, and clients; (b) the service setting; (c) the tasks assigned; and (d) the laws and regulations that govern SLPAs."*

The suggested language is duplicative. The suggested language is similar to the language being removed and as stated in the ISOR, that language is being removed because similar language can be found in section 1399.170.15(b)(3).

- Amend section 1399.170.15(b)(1) to align the required practice experience with ASHA.

The academic and experience requirements to become a licensed SLP are to prepare for entry-level practice and not management-level practice. Supervision is a specific set of skills to manage others and provide leadership that generally requires the development of skills through specialized training and/or experience. As stated in the ISOR, this requirement will ensure that a supervisor is sufficiently skilled in the practice beyond their education and whatever experience they gained as a student or RPE temporary license holder before supervising another person. Nine (9) months of experience is not sufficient to gain experience in a work setting that may be different from the one that was completed to satisfy the experience requirement for licensure, especially for newly licensed SLPs, who are practicing independently for the first time without supervision in the work setting in which they are permanently employed.

- Amend section 1399.170.15(b)(5) to align the professional development in supervision with ASHA.

The academic and experience requirements to become a licensed SLP are to prepare for entry-level practice and not management-level practice. Supervision is a specific set of skills to manage others and provide leadership that generally requires the development of skills through specialized training and/or experience. Since newly licensed SLPs do not have experience supervising another person pursuant to section 1399.153.7, an educational requirement is necessary. Two (2) hours of development in supervision is not sufficient to acquire the necessary knowledge to manage and lead others, and more importantly stay current with the trends of management and supervision. Since 2001, the Board has required

six (6) CE hours prior to supervision and three (3) CE hours every two (2) years, which is similar to the requirements the Board has for RPE supervision. The regulatory proposal seeks to align the ongoing development with the RPE supervision by requiring training every four (4) years instead of every two (2) based upon the rationale and anticipated benefits as stated in the ISOR.

- Amend section 1399.170.15(c) to add the hyperlink of the supervision form.

Changes to hyperlinks could occur that can inherently make this information inaccurate. For this reason, it is not common practice to codify hyperlinks into regulations. The Board informs all interested parties of all regulatory changes along with the effective date of a regulatory change once it is approved by the Office of Administrative Law and filed with the Secretary of State.

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 16 CCR sections 1399.170, 1399.170.2, and 1399.170.15, and direct staff to take all steps necessary to notice the modified regulatory text and make any non-substantive changes to the regulatory package.

Attachment A: Speech-Language Pathology Assistants Supervision Public Comments

Attachment B: Speech-Language Pathology Assistants Supervision Proposed Modified Text

Attachment C: Responsibility Statement for Supervision of a Speech-Language Pathology Assistant (DCA-SLPAHADB-SPA-110, Rev. 2/23)

Attachment D: Termination of Supervision (77S-61 New 12/99)

Attachment E: Termination of Supervision (77S-61, Rev Dec-15)

Attachment F: American Speech-Language-Hearing Association's Speech-Language Pathology Assistant Scope of Practice, 2022

Agenda Item 12(a)
Speech-Language Pathology Assistant (SLPA)
Supervision Requirements

Attachment A: Public Comments

Initial Public Comments
Received November 11, 2022 – December 27, 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
Speech-Language Pathology Assistant Supervision Requirements

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout . Added modified text is shown in <u>double underline</u> Deleted modified text is show in double strikethrough
----------------	--

Amend section 1399.170 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 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 or other setting, for purposes of interpreting the provisions in this Article.

(c) “Immediate supervision” means the supervising speech-language pathologist is physically present during services provided to the client by the speech-language pathology assistant.

(e)(d) “Direct supervision” means on-site observation and guidance or synchronous audiovisual 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 asynchronous 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 ~~videotaped~~ 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, direct 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.

(j) “Full-time equivalent” means at least thirty (30) hours per week.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Section 2538.1(b), Business and Professions Code.

Amend section 1399.170.2 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 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.

(d) Notwithstanding subdivisions (a), (b), and (c), the supervisor shall provide **immediate direct supervision that consists of on-site observation and guidance** of all duties performed by a speech-language pathology assistant at least twenty (20) percent per week of the speech-language pathology assistant's work schedule during the first ninety (90) days of work following initial licensure. The supervisor shall maintain a record in the speech-language pathology assistant's personnel file that verifies that the speech-language pathology assistant meets the requirements in this subdivision.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Section 2538.1(b)(7), Business and Professions Code.

Amend section 1399.170.15 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.15. Requirements for the Supervision of the Speech-Language Pathology Assistant.

(a) The supervising speech-language pathologist (hereinafter called "supervisor") is responsible for designing and implementing a supervisory plan that protects client care and maintains the highest possible standards of quality. ~~The amount and type of supervision required should be consistent with the skills and experience of the speech-language pathology assistant, the needs of the clients, the service setting, the tasks assigned, and the laws and regulations that govern speech-language pathology assistants.~~ Treatment of the client remains the responsibility of the supervisor.

(b) Any person **supervising registering** a speech-language pathology assistant **registered** with the Board on or after April 10, 2001, (hereinafter called "supervisor") shall submit, ~~within thirty (30) days of the commencement of such supervision, the "Responsibility Statement for Supervision of a Speech-Language Pathology Assistant" (77S-60, New 12/99), which requires that:~~ meet all of the following requirements:

~~(1) The supervisor shall p~~Possess and maintain a current, active, and unrestricted valid California license as a speech-language pathologist as required in Section 2532 of the Code and Section 1399.160.3 of California Code of Regulations or may hold a valid and current, active, and unrestricted professional clear, clear, or life clinical or rehabilitative services credential in language, speech and hearing, or speech-language pathology services credential issued by the California Commission on Teacher Credentialing, and have at least two years of full-time experience providing services as a licensed or credentialed speech-language pathologist. "Full-time experience" as used in this section means the individual works a minimum of thirty (30) hours per week for at least thirty-six (36) weeks in a calendar year.

~~(2) The supervisor shall i~~Immediately notify the assistant of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or lapse in licensure, which affects the supervisor's ability or right to supervise.

~~(3) The supervisor shall e~~Ensure that the extent, kind, and quality of the clinical work performed is consistent with the training and experience of the person being supervised, and be accountable for the assigned tasks performed by the speech-language pathology assistant. The supervisor shall review client/patient records, monitor and evaluate assessment and treatment decisions of the speech-language pathology assistant, and monitor and evaluate the ability of the assistant to provide services at the site(s) where he or she they will be practicing assigned service setting(s) and the particular clientele being treated, and ~~to~~ ensure compliance with all laws and regulations governing the practice of speech-language pathology.

~~(4) Provide~~ immediate direct supervision that consists of on-site observation and guidance at least twenty (20) percent per week of the speech-language pathology assistant's work schedule for the first ninety (90) days following initial licensure. The supervisor shall maintain a record in the speech-language pathology assistant's personnel file that verifies that the speech-language pathology assistant meets the requirements in this subdivision.

~~(45) The supervisor shall c~~Complete not less than six (6) hours of continuing professional development in supervision training in the initial two year period from prior to assuming responsibility as a supervisor the commencement of supervision, and three (3) hours in supervision training of continuing professional development every ~~two~~four (4) years thereafter. Continuing professional development training obtained by a Board-approved provider that meets the course content listed below, may be applied towards the continuing professional development requirement for licensees set forth in Section 1399.160.3 of the California Code of Regulations. The content of such training shall include, but is not limited to:

(A) Familiarity with supervision literature through reading assignments specified by course instructors; and

(B) Improving knowledge and understanding of the relationship between the speech-language pathologist and the assistant, and the relationship between the speech-language pathologist and the client;

(C) Structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;

(D) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and

(E) The practice of clinical speech-language pathology including the mandated reporting laws and knowledge of ethical and legal issues.

~~(56) The supervisor shall m~~Maintain records of course completion in supervision training for a period of two years from the speech-language pathology assistant's renewal date.

~~(67) The supervisor knows and understands~~Review with the speech-language pathology assistant the laws and regulations pertaining to supervision and practice of speech-language pathology assistants.

~~(78) As the professional development advisor, the supervisor shall assist in the d~~Development of a plan for the speech-language pathology assistant to complete twelve (12) hours of continuing professional development every two years through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication disorders.

~~(89) The supervisor shall communicate to the speech-language pathology assistant the manner in which emergencies will be handled.~~Provide the speech-language pathology assistant with a plan for how to handle emergencies.

(10) Assume responsibility for all services provided to clients by the speech-language pathology assistant that is being supervised.

~~(9c) Upon written request of the Board, t~~The supervisor shall provide to the Board within thirty (30) business days from the start date of supervision any documentation the "Responsibility Statement for Supervisors of a Speech-Language Pathology Assistant" (DCA-SLPAHADB-SPA-110 77S-60, Rev. 25/223), which is hereby incorporated by reference as if set forth in full herein. This form verifies the supervisor's compliance with the requirements set forth in this article. The supervisor shall provide a

copy of the completed form to the assistant within forty-five (45) business days from

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Sections 2530.2(f), 2538.1(b)(5), (6), (7) and (9), Business and Professions Code.

Amend section 1399.170.16 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.16. Maximum Number of Support Personnel.

A supervisor shall not supervise more than three (3) full-time equivalent support personnel, and shall not exceed more than (6) support personnel at any time. ~~more than two of which hold the title of speech-language pathology assistant.~~ Support personnel includes speech-language pathology assistants and speech-language pathology aides.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Section 2538.1(b)(8), Business and Professions Code.

Amend section 1399.170.17 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.17. Multiple Supervision.

If a speech-language pathology assistant has more than one supervisor, each supervisor shall submit a ~~Supervisor-Responsibility Statement for Supervisors of a Speech-Language Pathology Assistant~~ (DCA-SLPAHADB-SPA-110 ~~77S-60~~, Rev. -)

compliance with the continuing professional development requirement.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Sections 2530.2(f) and 2538.1(b)(5)-(9), Business and Professions Code.

Amend section 1399.170.18 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.18. Notice of Termination.

At the time of termination of supervision, the supervisor shall notify the Board in writing complete the "Termination of Supervision" form (77S-61 New 12/99) .). This original signed form notification shall be submitted to the Board by the supervisor within fourteen (14) days of termination of supervision. The supervisor shall provide a copy of the form completed notification to the speech-language pathology assistant within forty-five (45) business days of termination of supervision.

(a) Written notification for the purposes of this section shall include the full legal name and license number of the speech-language pathology assistant; the effective date of the termination; and the supervisor's full legal name, license or credential number, business address, telephone number, and signature.

(b) The notification shall contain a certification under penalty of perjury that all statements made in the Termination of Supervision document are true in every respect and that misstatements or omissions of material facts may be cause for denial of the application to terminate supervision, or for suspension or revocation of a license.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Sections 2530.2(f) and 2538.1(b)(5)-(9), Business and Professions Code.



RESPONSIBILITY STATEMENT FOR SUPERVISORS OF A SPEECH-LANGUAGE PATHOLOGY ASSISTANT

INSTRUCTIONS TO SUPERVISORS: Complete the following sections, read the statements, and sign on page 2 and 3. This form must be submitted to the Board within 30 business days from the start date of supervision. **Do not use white out or fax this form.**

This completed form must be submitted to the Board as required by Title 16, California Code of Regulations (CCR) section 1399.170.15. The information requested on this form is mandatory and must be submitted to remain in compliance with section 1399.170.15. The information provided will be used to determine compliance with section 1399.170.15.

Division 13.4 of Title 16, California Code of Regulations Section 1399.170.15 requires that any qualified speech-language pathologist who assumes responsibility for providing supervision to a registered speech-language pathology assistant to complete and sign under penalty of perjury, the following statement.

PART A: SPEECH-LANGUAGE PATHOLOGY ASSISTANT INFORMATION

1. FULL LEGAL NAME:	LAST	FIRST	MIDDLE
2. SPEECH-LANGUAGE PATHOLOGY ASSISTANT LICENSE NUMBER			
3. STREET ADDRESS:			
CITY, STATE, ZIP CODE:			
4. EMAIL ADDRESS:			

PART B: SUPERVISOR INFORMATION

1. FULL LEGAL NAME OF SUPERVISOR:	LAST	FIRST	MIDDLE
2. SPEECH-LANGUAGE PATHOLOGY LICENSE NUMBER OR CLEAR CREDENTIAL DOCUMENT NUMBER			
3. STREET ADDRESS:			
CITY, STATE, ZIP CODE:			
4. EMAIL ADDRESS:			

Refer to Title 16, California Code of Regulations (16 CCR), Section 1399.170.15 for a supervisor's responsibilities.

PART C: SUPERVISION

5. DATE SUPERVISION BEGAN: (MM/DD/YY)	
6. ARE YOU SUPERVISING AN ASSISTANT WHO HAS MORE THAN ONE SUPERVISOR? <input type="checkbox"/> YES <input type="checkbox"/> NO	
If yes, please indicate whether you will be the supervisor designated as the lead supervisor for the purposes of assisting the speech-language pathology assistant in their compliance with the requirements pursuant to 16 CCR section 1399.170.17.	
<input type="checkbox"/> YES <input type="checkbox"/> NO	
7. ASSISTANT'S NUMBER OF EMPLOYMENT HOURS PER WEEK: 30-40 (FULL-TIME) 15-29 (PART-TIME)	

16 CCR section 1399.170.15 requires any qualified speech-language pathologist who assumes responsibility for providing supervision to a registered speech-language pathology assistant to complete and sign the following statement.

† Duties and Responsibilities of Speech-Language Pathology Assistant †

I have reviewed with my supervisor the laws and regulations pertaining to the practice of speech-language pathology assistant.

ASSISTANT SIGNATURE

PRINTED NAME OF ASSISTANT

DATE

† Duties and Responsibilities of Supervisor †

- 1) I possess the following qualifications to supervise an assistant: a current, active, and unrestricted Speech-Language Pathology license issued by the Board, or (if employed by a public school) a valid, active, and unrestricted credential authorizing services in language, speech, and hearing issued by the Commission on Teacher Credentialing, and have at least two years of full-time experience providing services as a licensed or credentialed speech-language pathologist. "Full-time experience" means the individual works a minimum of thirty (30) hours per week for at least thirty-six (36) weeks in a calendar year.
- 2) I will immediately notify the assistant of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or lapse in licensure that affects my ability or right to supervise.
- 3) I will ensure that the extent, kind, and quality of the clinical work performed is consistent with the training and experience of the assistant and I shall be accountable for the assigned tasks performed by the assistant. I will review client/patient records, monitor and evaluate the ability of the assistant to provide services at the ~~site(s) where they will be practicing~~ assigned service setting(s) and ~~to~~ the particular clientele being treated and ensure compliance with all laws and regulations governing the practice of speech-language pathology.
- 4) I will provide ~~immediate direct~~ supervision that consists of on-site observation and guidance at least twenty (20) percent per week of the assistant's work schedule for the first ninety (90) days following initial licensure. The lead supervisor is responsible for ensuring the assistant meets the requirement in 16 CCR section 1399.170.2(d).
- 5) I will complete no less than six (6) hours of continuing professional development in supervision training prior to ~~the commencement of supervision,~~ assuming responsibility as a supervisor, and three (3) hours in supervision training every four (4) years thereafter.
- 6) I will maintain records of course completion in supervision training for a period of two (2) years from the assistant's registration renewal date.
- 7) I have reviewed with the assistant the laws and regulations pertaining to supervision and practice of assistants.
- 8) I will develop a plan for the assistant to complete twelve (12) hours of continuing professional development every two (2) years, through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these, concerning communication disorders.
- 9) I will provide the assistant with a plan for how to handle emergencies.
- 10) I assume responsibility for all services provided to clients by the assistant that is being supervised.
- 11) I will provide the Board with this original signed form within thirty (30) business days from the commencement date of supervision, which verifies my compliance with the requirements set forth in Article 12 of Division 13.4 of Title 16, California Code of Regulations. I will provide a copy of this completed form to the assistant within forty-five (45) business days from the commencement date of supervision.

✦ Duties and Responsibilities of Supervisor ✦
cont'd

- 12) I will not supervise more than three (3) full-time equivalent support personnel, and I shall not exceed six (6) support personnel at any time.
- 13) At the time of termination of supervision, I will ~~complete the "Termination of Supervision" form (77S-61 New 12/09)~~ **notify the Board in writing** and submit the original signed ~~form notification~~ to the Board within fourteen (14) calendar days of termination of supervision. I will provide a copy of ~~the form completed notification~~ to the assistant within forty-five (45) business days of termination of supervision.

 SIGNATURE OF SUPERVISOR

 PRINT FULL LEGAL NAME OF SUPERVISOR

 LICENSE NUMBER OR CREDENTIAL NUMBER
 (Please attach a copy of the front and back of your credential)

 DATE

 Speech-Language Pathology Assistant's Name

 SPA Number

 Supervisor's Name

 License or SSN Number

As the supervisor:

- 1) ~~I possess the following qualifications to supervise a speech language pathology assistant:~~

~~A California license issued by the Speech-Language Pathology and Audiology Board~~

~~-OR-~~

~~License # Issue Date~~

~~A valid and current Professional Clear, Clear, or Life Clinical or Rehabilitative Services-Credential in language, speech, and hearing issued by the California Commission on Teacher Credentialing~~
 (please attach a copy of the credential front and back)

~~SSN # Issue Date~~

- 2) ~~I will immediately notify the assistant of any disciplinary action, including revocation, suspension, even if stayed, probation terms, inactive license, or lapse in licensure, that effects my ability or right to supervise.~~
- 3) ~~I will complete not less than six (6) hours of continuing professional development in supervision training in the initial two year period from the commencement of supervision, and three (3) hours in supervision training every two years thereafter pursuant to Section 1399.170.15(b)(4) of the California Code of Regulations.~~
- 4) ~~I will maintain records of course completion for a period of two years from the speech language pathology assistant's registration renewal date.~~
- 5) ~~I know and understand the laws and regulations pertaining to the supervision of assistants and the experience required for registration as a speech language pathology assistant.~~
- 6) ~~I will ensure that the extent, kind, and quality of the clinical work performed is consistent with the training and experience of the speech language pathology assistant and shall be accountable for the assigned tasks performed by the speech language pathology assistant.~~
- 7) ~~I will review client/patient records, monitor and evaluate assessment and treatment decisions of the speech language pathology assistant, monitor and evaluate the ability of the assistant to provide services at the site(s) where he or she will be practicing and to the particular clientele being treated, and ensure compliance with all laws and regulations governing the practice of speech language pathology.~~

- ~~8) I will assist with the development of a plan for the speech language pathology assistant to complete twelve (12) hours of continuing professional development every two years, through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these, concerning communication disorders.~~
- ~~9) I will address with the speech language pathology assistant the manner in which emergencies will be handled.~~
- ~~10) I will provide this board with this original signed form within thirty (30) calendar days of commencement of any supervision. I will provide a copy of this form to the speech language pathology assistant.~~
- ~~11) At the time of termination of supervision, I will complete the "Termination of Supervision" form 77ST(new 12/99). I will submit the original signed form to the board within fourteen (14) calendar days of termination of supervision.~~
- ~~12) Upon written request of the board, I will provide to the board any documentation which verifies my compliance with the requirements set forth in this statement.~~
- ~~13) I will not supervise more than three (3) support personnel, not more than two of which hold the title of speech language pathology assistant.~~

Multiple Supervision Statement

Are you supervising an assistant who has more than one supervisor?

Yes No

If yes, please indicate whether you will be the supervisor designated as the lead supervisor for the purposes of assisting the speech language pathology assistant in his or her compliance with the continuing professional development requirement pursuant to section 1399.170.17 of the California Code of Regulations.

Yes No

I declare under penalty of perjury under the laws of the State of California that I have read and understand the foregoing and the information submitted on this form is true and correct.

Printed Name of Qualified Supervisor Signature of Qualified Supervisor Date

Date Supervision Commenced

Mailing Address: Number and Street City State Zip Code

Qualified Supervisor's Daytime Telephone Number: () _____

Printed Name of Speech-Language Pathology Assistant Signature of Speech-Language Pathology Assistant Date

SOCIAL SECURITY DISCLOSURE NOTICE

Disclosure of your Social Security Number (SSN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c) (2) C)) authorize collection of your SSN. Your SSN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Section 11350.6 of the Welfare and Institutions Code, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN, you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.

NOTICE OF COLLECTION OF PERSONAL INFORMATION

The information collected on this form may be provided to other governmental agencies, or in response to a court order, subpoena, search warrant, or Public Records Act request. You have a right of access to records containing personal information unless the records are exempted from disclosure pursuant to the Information Practices Act (Civil Code section 1798 et seq.). Individuals may obtain information regarding the location of their records by contacting the Board's Executive Officer at the Board's address listed above.

TERMINATION OF SUPERVISION

Division 13.4 of Title 16, California Code of Regulations Section 1399.170.18 requires that at the time of termination of supervision, the supervisor shall submit this original signed form within fourteen days of the termination of supervision.

_____	_____
— Speech Language Pathology Assistant’s Name	SPA Number
_____	_____
Supervisor’s Name	License or SSN Number

I, _____ certify that I supervised _____, in performing the duties and functions of a speech language pathology assistant in accordance with Section 1399.170.15 of the California Code of Regulations from _____ to _____.

I declare under penalty of perjury under the laws of the State of California that I have read and understand the foregoing and the information submitted on this form is true and correct.

_____	_____	_____
Printed Name of Qualified Supervisor	Signature of Qualified Supervisor	Date

_____	_____	_____	_____
Mailing Address: No. & Street	City	State	Zip Code

(_____) _____
Qualified Supervisor’s Daytime Telephone Number

The original of this form must be mailed to:

Speech Language Pathology & Audiology Board
1422 Howe Avenue, Ste. 3
Sacramento, CA 95825



TERMINATION OF SUPERVISION FOR SPEECH-LANGUAGE PATHOLOGY ASSISTANT OR RPE

Division 13.4 of Title 16, California Code of Regulations Section 1399.153.9 and 1399.170.18 requires that at the time of termination of supervision, the supervisor shall submit this original signed form within 14 days of the termination of supervision for a Speech-Language Pathology Assistant or within 10 days of the termination of supervision for a RPE.

PLEASE CHECK APPLICABLE:

Speech-Language Pathology Assistant **RPE**

PART A – Speech-Language Pathology Assistant or RPE Information (Please Print)

1. FULL LEGAL NAME:			
LAST	FIRST	MIDDLE	
2. SLPA OR RPE LICENSE NUMBER			
SLPA #		RPE #	

PART B – Supervisor Information (Please Print)

1. FULL LEGAL NAME:			
LAST	FIRST	MIDDLE	
2. LICENSE NUMBER OR CREDENTIAL NUMBER			
SLP #	AU #	CREDENTIAL #	

I, _____ Supervisor Name am terminating the supervision of
 _____ SLPA or RPE name effective as of _____ Effective Date

I hereby certify under penalty of perjury under the laws of the State of California that all statements made herein are true in every respect and that misstatements or omissions of material facts may be cause for denial of this application, or for suspension or revocation of a license.

Signature of Supervisor	Printed Name of Supervisor	Date
Street Address	City	State
Supervisor's Telephone Number		
Zip Code		

**DO NOT FAX THIS FORM
THE BOARD REQUIRES ORIGINAL SIGNATURES**



ASHA
American
Speech-Language-Hearing
Association

SCOPE OF PRACTICE FOR THE SPEECH- LANGUAGE PATHOLOGY ASSISTANT (SLPA)

AD HOC COMMITTEE TO UPDATE THE SCOPE OF PRACTICE FOR SPEECH-LANGUAGE PATHOLOGY
ASSISTANTS

Reference this material as: American Speech-Language-Hearing Association. (2022). *Speech-language pathology assistant scope of practice* [Scope of Practice]. Available from www.asha.org/policy.

© Copyright 2022 American Speech Language Hearing Association. All rights reserved.

Disclaimer: The American Speech-Language-Hearing Association disclaims any liability to any party for the accuracy, completeness, or availability of these documents, or for any damages arising out of the use of the documents and any information they contain.

TABLE OF CONTENTS

- [About This Document](#)
- [Dedication](#)
- [Acknowledgements](#)
- [Executive Summary](#)
- [Introduction](#)
- [Statement of Purpose](#)
- [Minimum Requirements for an SLPA](#)
 - [Three Educational Options](#)
 - [Additional Requirements](#)
- [Expectations of an SLPA](#)
- [Responsibilities Within the Scope of Practice for SLPAs](#)
- [Service Delivery](#)
- [Culturally Responsive Practices](#)
 - [Responsibilities for SLPs and SLPAs](#)
 - [Responsibilities for Practitioners Who Use Multiple Languages](#)
- [Administrative Support](#)
- [Prevention and Advocacy](#)
- [Responsibilities Outside the Scope of Practice for Speech-Language Pathology Assistants](#)
- [Practice Settings](#)
- [Ethical Considerations](#)
- [Liability Issues](#)
- [Guidelines for SLP Supervision of SLPAs](#)
 - [Minimum Qualifications for a Supervising SLP](#)
 - [Expectations for the Supervising SLP](#)
 - [Supervision of SLPAs](#)
 - [SLP-to-SLPA Ratio](#)
 - [Requirements for the Frequency and Amount of Supervision](#)
- [Conclusion](#)
- [Definitions](#)
- [References](#)

ABOUT THIS DOCUMENT

This Scope of Practice for the Speech-Language Pathology Assistant (SLPA) was developed by the American Speech-Language-Hearing Association (ASHA) Ad Hoc Committee to Update the Scope of Practice for Speech-Language Pathology Assistants (hereafter, “the Ad Hoc Committee”). In January 2021, the ASHA Board of Directors approved a resolution for the development of the ad hoc committee to complete this task. Members of the committee were Jerrold Jackson, MA, CCC-SLP (chair, Texas),

Tyler T. Christopoulos, PhD, CCC-SLP (Utah), Erin Judd, C-SLPA (Minnesota), Ashley Northam, CCC-SLP (Oregon), Katie Orzechowski, MS, CCC-SLP (Illinois), Jennifer Schultz, MA, CCC-SLP (South Dakota), Nancy Thul, MS, CCC-SLP (Minnesota), Nicole Wilson-Friend, C-SLPA (California), and Lemmietta McNeilly, PhD, CCC-SLP (ex officio). Linda I. Rosa-Lugo, EdD, CCC-SLP, Vice President for Speech-Language Pathology Practice, served as the Board liaison. The composition of the Ad Hoc committee included ASHA-certified speech-language pathologists (SLPs) and SLPAs with specific knowledge and experience working with/as support personnel in clinical practice in schools, health care, and/or private practice settings.

This document is intended to provide guidance for SLPAs and their SLP supervisors regarding ethical considerations related to the SLPA practice parameters. It addresses how services performed by SLPAs should be utilized and what specific responsibilities are within and outside their roles of clinical practice. This information was developed by analyzing current practice standards, certification requirements, methods of academic and clinical training (from academic program directors, clinical educators, etc.), and feedback from stakeholders in communication sciences and disorders. Given that standards, state credentialing (e.g., licensure, etc.), and practice issues vary from state to state, this document's purpose is to provide information regarding ASHA's guidelines for the use of SLPAs for the treatment of communication disorders across practice settings.

DEDICATION

In loving memory of Steve Ritch, whose dedication, commitment, and perseverance contributed to ensuring integrity and quality in addressing the topic of SLPAs within the ASHA structure.

ACKNOWLEDGEMENTS

We would like to acknowledge others who provided feedback and insights that aided in the development of this document. The Ad Hoc Committee would also like to acknowledge the expertise shared by Marianne Gellert-Jones, MA, CCC-SLP (Pennsylvania), Ianessa Humbert, PhD, CCC-SLP (Washington, D.C.), and Rosemary Montiel, C-SLPA (California).

EXECUTIVE SUMMARY

ASHA has identified critical shortages of speech-language pathologists (SLP) in all regions of the country, particularly in school settings. These shortages impede the ability of individuals with communication and related disorders to reach their full academic, social, and emotional potential. The use of speech-language pathologist assistants (SLPAs) is an essential element of aiding those professionals who provide services and individuals who rely on such services. It is the position of ASHA that the use of any support personnel be done with the explicit purpose of support for the SLP rather than used as an alternative.

This scope of practice presents minimum recommendations for the training, use, and supervision of speech-language pathology assistants. SLPAs perform tasks as prescribed, directed, and supervised by

ASHA-certified and/or state-credentialed SLPs. Support personnel can be used to increase the availability, frequency, and efficiency of services.

Some tasks, procedures, or activities used to treat individuals with communication and related disorders can be successfully performed by individuals other than SLPs if the persons conducting the activity are properly trained and supervised by ASHA-certified and/or state-credentialed SLPs. The use of evidence as well as ethical and professional judgment should be at the heart of the selection, management, training, supervision, and use of SLPAs.

This scope of practice specifies the minimum qualifications and responsibilities for an SLPA and delineates the tasks that are the exclusive responsibilities of the SLP. In addition, the document provides guidance regarding ethical considerations when SLPAs provide clinical services and outlines the supervisory responsibilities of the supervising SLP.

INTRODUCTION

The *Scope of Practice for the SLPA* provides information regarding the training, use, and supervision of assistants in speech-language pathology – a designation that ASHA established to be applicable in a variety of work settings. Training for SLPAs should be based on the type of tasks specified in their scope of responsibility. Specific education and training may be necessary to prepare assistants for unique roles in various professional settings.

ASHA has addressed the topic of support personnel in speech-language pathology since the 1960s. In 1967, the ASHA Executive Board established the Committee on Supportive Personnel and, in 1969, the document ASHA Legislative Council (LC) approved the document *Guidelines on the Role, Training and Supervision of the Communicative Aide*. In the 1990s, several entities—including committees, a task force, and a consensus panel—were established and the LC approved a position statement, technical report, guidelines, and curriculum content for support personnel. In 2002, ASHA developed an approval process for SLPA programs, and in 2003 ASHA established a registration process for SLPAs. Both were discontinued by vote of the LC because of fiscal concerns. In 2004, the LC approved a position statement on the training, use, and supervision of support personnel in speech-language pathology. Since then, the number of SLPAs has increased primarily in schools and private practice settings. ASHA members in many states continue to request specific guidance from ASHA. In 2016, the ASHA Board of Directors (BOD) completed a feasibility study for the standardization of requirements for assistants; that study demonstrated strong support for certifying assistants, across all stakeholders. The ASHA BOD voted to approve the Assistants Certification program in 2017. In December 2020, the ASHA Assistants Certification Program launched; this program sets standards for the practices and operations for SLPAs as well as for audiology assistants.

This document does not supersede federal legislation and regulation requirements or any existing state credentialing laws, nor does it affect the interpretation or implementation of such laws. The

document may serve, however, as a guide for the development of new laws or, at the appropriate time, for revising existing licensure laws.

STATEMENT OF PURPOSE

The purpose of this document is to define what is within and outside the scope of responsibilities for SLPAs who work under the supervision of properly credentialed SLPs. The following aspects are addressed:

- parameters for education and professional development for SLPAs
- SLPAs' responsibilities within and outside the scope of practice
- varied practice settings
- information for others (e.g., special educators, parents, consumers, health professionals, payers, regulators, members of the general public) regarding services that SLPAs perform
- information regarding the ethical and liability considerations for the supervising SLP and the SLPA
- supervisory requirements for the SLP and the SLPA.

MINIMUM REQUIREMENTS FOR AN SLPA

An SLPA must complete an approved course of academic study, complete a supervised clinical experience, successfully pass the ASHA Assistants Certification Exam, **meet credentialing requirements for the state in which they practice**, and receive orientation as well as on-the-job training of SLPA responsibilities specific to the setting.

The minimum educational, clinical, and examination requirements for all SLPAs are outlined in the subsections below:

THREE EDUCATIONAL OPTIONS

An SLPA has three educational options:

1. Completion of an SLPA program from a regionally accredited institution (e.g., an associate degree, a technical training program, a certificate program).

OR

2. Receipt of a bachelor's degree in communication sciences and disorders from a regionally accredited institution AND completion of [ASHA education modules](#).

OR

3. Receipt of a bachelor's degree in a field other than communication sciences and disorders AND completion of [ASHA education modules](#) AND successful completion of coursework from a regionally or nationally accredited institution in all of the following areas:

- introductory or overview course in communication disorders
- phonetics
- speech sound disorders
- language development

- language disorders
- anatomy and physiology of speech and hearing mechanisms

ADDITIONAL REQUIREMENTS

In addition to having satisfied one of the above three educational options, the SLPA must also meet all the following three requirements:

1. Completion of a supervised clinical experience that consists of a minimum of one hundred (100) hours under the direct supervision of an ASHA certified SLP. The supervising SLP must meet all [ASHA certification and supervising requirements](#) and state credentialing requirements.
2. Achieve a passing score on the [ASHA Assistants Certification Exam](#).
3. Meet all [state credentialing requirements](#).

EXPECTATIONS OF AN SLPA

The following list details of the roles and performance expectations of an ASHA-certified SLPA:

- Adhere to all applicable state laws and rules regulating the practice of speech-language pathology.
- Adhere to the responsibilities for SLPAs specified in this scope of practice document and in state requirements.
- Avoid performing tasks or activities that are the exclusive responsibility of the SLP.
- Perform only those tasks approved by the supervising SLP.
- Work only in settings for which the SLPA has been trained and in which state regulations allow for SLPA employment.
- Deliver services only with an ASHA-certified and state licensed SLP providing direct and indirect supervision on a regular and systematic basis. Frequency and type of supervision should be based on the SLPA's competencies, and the caseload need, both of which are determined by the supervising SLP.
- Conduct oneself ethically within the [ASHA Assistant's Code of Conduct](#) (ASHA, 2020b) and state ethical codes.
- Self-advocate for needed supervision and training and for adherence to this SLPA scope of practice and other requirements.
- Provide culturally responsive services while communicating and collaborating with students, patients, clients, the supervising SLP, colleagues, families, caregivers, and other stakeholders.
- Actively pursue continuing education and professional development activities.
- Obtain information regarding availability and need for liability insurance.

RESPONSIBILITIES WITHIN THE SCOPE OF PRACTICE FOR SLPAS

The supervising SLP retains full legal and ethical responsibility for students, patients, and clients served but may delegate specific tasks to the SLPA. The SLPA may execute components of services as specified by the SLP in the plan of care. Services performed by the SLPA are only those within the scope of practice and are tasks that the SLPA has the training and skill to perform as verified by the supervising SLP. The SLP must provide appropriate and adequate direct and indirect supervision to ensure quality care for all persons served. The amount of supervision may vary depending on the case's complexity and the SLPA's experience. Under no circumstances should the use of an SLPA's services (a) violate the [ASHA Code of Ethics](#) (2016a) or the [ASHA Assistants Code of Conduct](#) (2020b) or (b) negatively impact the quality of services. An SLPA's services are designed to enhance the quality of care provided by the SLP.

Decisions regarding the tasks that are appropriate to assign to the SLPA should be made by the supervising SLP in collaboration with the SLPA. The SLPA is responsible for communicating their knowledge, experience, and self-assessment of competence with specific skills to the supervising SLP. It is the SLP's responsibility to observe the SLPA performing specific tasks; to provide feedback regarding clinical performance; to recommend or provide education and training to develop skills to meet the needs of the students, patients, and clients served; and to validate the SLPA's competence. The SLPA's competence in practice areas can be determined by observations, collaboration between the supervising SLP and the SLPA, as well as other resources deemed significant by the supervisor/supervisee pair.

If the SLPA has demonstrated the necessary competencies and the supervising SLP provides the appropriate amount and type of supervision, the SLPA may engage in or assigned to perform the following tasks:

- service delivery
- culturally responsive practices
- responsibilities for all practitioners
- responsibilities for practitioners who use multiple languages
- administration and support
- prevention and advocacy.

SERVICE DELIVERY

The SLPA should engage in the following activities when performing necessary tasks related to speech-language service provision:

- Self-identifying (e.g., verbally, in writing, signage, titles on name badges, etc.) as an SLPA to students, patients, clients, families, staff, and others.
- Exhibiting compliance with federal, state, and local regulations including: The Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act (FERPA); reimbursement requirements; and state statutes and rules regarding SLPA education, training, and scope of practice.
- Administering and scoring screenings for clinical interpretation by the SLP.

- Assisting the SLP during assessment of students, patients, and clients (e.g., setting up the testing environment, gathering and prepping materials, taking notes as advised by the SLP, etc.).
- Administering and scoring assessment tools that (a) the SLPA meets the examiner requirements specified in the examiner's manual and (b) the supervising SLP uses to verify the SLPA's competence in administration, exclusive of clinical interpretation.
- Administering and scoring progress monitoring tools exclusive of clinical interpretation if (a) the SLPA meets the examiner requirements specified in the examiner's manual and (b) the supervisor has verified the SLPA's competence in administration.
- Implementing documented care plans or protocols (e.g., individualized education plan [IEP], individualized family service plan [IFSP], treatment plan) developed and directed by the supervising SLP.
- Providing direct therapy services addressing treatment goals developed by the supervising SLP to meet the needs of the student, patient, client, and family.
- Adjusting and documenting the amount and type of support or scaffolding provided to the student, patient, or client in treatment to facilitate progress.
- Developing and implementing activities and materials for teaching and practice of skills to address the goals of the student, patient, client, and family per the plan of care developed by the supervising SLP.
- Providing treatment through a variety of service delivery models (e.g., individual, group, classroom-based, home-based, co-treatment with other disciplines) as directed by the supervising SLP.
- Providing services via telepractice to students, patients, and clients who are selected by the supervising SLP.
- Documenting student, patient, or client performance (e.g., collecting data and calculating percentages for the SLP to use; preparing charts, records, and graphs) and report this information to the supervising SLP in a timely manner.
- Providing caregiver coaching (e.g., model and teach communication strategies, provide feedback regarding caregiver-child interactions) for facilitation and carryover of skills.
- Sharing objective information (e.g., accuracy in speech and language skills addressed, participation in treatment, response to treatment) regarding student, patient, and client performance to students, patients, clients, caregivers, families and other service providers without interpretation or recommendations as directed by the SLP.
- Programming augmentative and alternative communication (AAC) devices.
- Providing training and technical assistance to students, patients, clients, and families in the use of AAC devices.
- Developing low-tech AAC materials for students, patients, and clients.
- Demonstrating strategies included in the feeding and swallowing plan developed by the SLP and share information with students, patients, clients, families, staff, and caregivers.

- Assisting students, patients, and clients with feeding and swallowing skills developed and directed by the SLP when consuming food textures and liquid consistencies.

CULTURALLY RESPONSIVE PRACTICES

Cultural responsiveness has been described as providing individuals “with a broader perspective from which to view our behaviors as they relate to our actions with individuals across a variety of cultures that are different from our own” (Hyter & Salas-Provance, 2019, p.7).

Engaging in culturally responsive practices refers to the “explicit use of culturally based care and health knowledge in sensitive, creative, and meaningful ways” (Leininger, 2002, p. 84). It is important to remember that cultural and linguistic backgrounds exist on a continuum and not all individuals will exhibit characteristics of one group at any given time. Practitioners must meet the student, patient, client, and their families or caregivers in a space of mutual understanding and respect.

Not only is the supervising SLP responsible for engaging in these practices, but they should also train and provide support for the SLPA to develop these skills

RESPONSIBILITIES FOR SLPS AND SLPAS

All practitioners have the following responsibilities related to cultural and linguistic supports:

- Adjust communication style and expectations to meet the needs of clients, patients, and students from different cultural groups and to provide services in a culturally responsive manner. For more information, see the ASHA Practice Portal on [Cultural Competence](#) [ASHA, n.d.-b].
- Provide information to families and staff regarding the influence of first language on the development of communication and related skills in a second language (under the direction of the supervising SLP).
- Develop an understanding of the family dynamic from a cultural perspective to effectively engage in meetings surrounding intake, discussions of the therapy plan of care and other communication scenarios surrounding practices for addressing communication concerns
- Engage in continuing education and training opportunities focusing on the assessment and intervention process when working with individuals from culturally and linguistically diverse backgrounds.

RESPONSIBILITIES FOR PRACTITIONERS WHO USE MULTIPLE LANGUAGES

Based on prior training and experiences in working with multilingual students, patients or clients and their families, the SLPA may engage in the following tasks:

- Assist the SLP with interpretation and translation in the student’s, patient’s, or client’s first language during screening and assessment activities exclusive of clinical interpretation of results. For more information, see [Issues in Ethics: Cultural and Linguistic Competence](#) (ASHA 2017) and the ASHA Practice Portal Page on [Bilingual Service Delivery](#) (ASHA, n.d.-a)

- Interpret for students, patients, clients, and families who communicate using a language other than English, when the provider has received specialized training with interpreting skills in the student's, patient's, or client's first language. For more information, see [Issues in Ethics: Cultural and Linguistic Competence](#) (ASHA 2017) and the ASHA Practice Portal Page on [Bilingual Service Delivery](#) (ASHA, n.d.-a)
- Provide services in another language for individuals who communicate using a language other than English or for those who are developing English language skills. Such services are based on the provider's skills and knowledge of the language spoken by the student, patient, or client. For more information, see [Issues in Ethics: Cultural and Linguistic Competence](#) (ASHA 2017) and the ASHA Practice Portal Page on [Bilingual Service Delivery](#) (ASHA, n.d.-a).

ADMINISTRATIVE SUPPORT

Depending on the setting, adequate training, and guidance from the supervising SLP, the SLPA may:

- assist with clerical duties and site operations (e.g., scheduling, recordkeeping, maintaining inventory of supplies and equipment);
- perform safety checks and maintenance of equipment, and
- prepare materials for screening, assessment, and treatment services.

PREVENTION AND ADVOCACY

Depending on the setting, adequate training, and guidance from the supervising SLP, the SLPA may

- present primary prevention information to individuals and groups known to be at risk for communication and swallowing disorders;
- promote early identification and early intervention activities;
- advocate for individuals and families through community awareness, health literacy, education, and training programs to promote and facilitate access to full participation in communication—including addressing the social determinants of health and health disparities;
- provide information to emergency response agencies for individuals who have communication, swallowing, and/or related disorders;
- advocate at the local, state, and national levels for improved public policies affecting access to services and research funding;
- support the supervising SLP in research projects, in-service training, marketing, and public relations programs; and
- participate actively in professional organizations.

RESPONSIBILITIES OUTSIDE THE SCOPE OF PRACTICE FOR SPEECH-LANGUAGE PATHOLOGY ASSISTANTS

There is potential for misuse of an SLPA's services, particularly when responsibilities are delegated by other staff members (e.g., administrators, nursing staff, physical therapists, occupational therapists, psychologists, etc.) without the approval of the supervising SLP. It is highly recommended that this *ASHA SLPA Scope of Practice* as well as the [ASHA Code of Ethics](#) (ASHA, 2016a) and the [ASHA Assistants Code of Conduct](#) (ASHA, 2020b) be reviewed with all personnel involved when employing an SLPA. It should be emphasized that an individual's communication and/or related disorders and/or other factors may preclude the use of services from anyone other than an ASHA-certified and/or licensed SLP. The SLPA should not perform any task without the approval of the supervising SLP. The student, patient, or client should be informed that they are receiving services from an SLPA under the supervision of an SLP.

The SLPA should *NOT* engage in any of the following activities:

- representing themselves as the SLP;
- interpreting assessment tools for the purpose of diagnosing disability, determining eligibility or qualification for services;
- administering or interpreting feeding and/or swallowing screenings, checklists, and assessments;
- diagnosing communication and feeding/swallowing disorders;
- developing or determining the feeding and/or swallowing strategies or precautions for students, patients, and clients;
- disclosing clinical or confidential information (e.g., diagnosis, services provided, response to treatment) either orally or in writing to individuals who have not been approved by the SLP to receive information unless mandated by law;
- writing, developing, or modifying a student's, patient's, or client's plan of care in any way;
- making referrals for additional services;
- assisting students, patients, and clients without following the individualized plan of care prepared by the ASHA certified SLP;
- assisting students, patients, and clients without access to supervision;
- selecting AAC systems or devices;
- treating medically fragile students, patients, and clients without 100% direct supervision;
- performing procedures that require specialized knowledge and training (e.g., vocal tract prosthesis shaping or fitting, vocal tract imaging);
- providing input in care conferences, case conferences, or any interdisciplinary team meeting without the presence or prior approval of the supervising SLP or other designated SLP;
- providing interpretative information to the student, patient, client, family, or others regarding the student's, patient's, or client's status or service;
- signing or initialing any formal documents (e.g., plans of care, reimbursement forms, reports) without the supervising SLP's co-signature;
- discharging a student, patient, or client from services.

PRACTICE SETTINGS

Under the specified guidance and supervision of an ASHA-certified and/or state-credentialed SLP, SLPAs may provide services in a wide variety of settings, which may include, but are not limited to, the following:

- public, private, and charter elementary and secondary schools
- early intervention settings (e.g., homes, preschools, daycare settings)
- hospitals (inpatient and outpatient)
- residential health care settings (e.g., long-term care and skilled nursing facilities)
- nonresidential health care settings (e.g., adult daycare, home health services, and clinics)
- private practice settings
- university/college clinics
- research facilities
- corporate and industrial settings
- student's, patient's, or client's residences

ETHICAL CONSIDERATIONS

ASHA strives to ensure that its members and certificate holders preserve the highest standards of integrity and ethical practice. ASHA maintains two separate documents that set forth the fundamentals of ethical conduct in the professions. The [ASHA Code of Ethics](#) (2016a) sets forth the fundamental principles and rules deemed essential for SLPs. This code applies to every individual who is (a) an ASHA member, whether certified or not, (b) a nonmember holding the ASHA Certificate of Clinical Competence, (c) an applicant for membership or certification, or (d) a Clinical Fellow seeking to fulfill standards for certification.

The [ASHA Assistants Code of Conduct](#) (2020b) sets forth the principles and fundamentals of ethical practice for SLPAs. The Assistants Code of Conduct applies to all ASHA-certified audiology and speech-language pathology assistants, as well as applicants for assistant certification. It defines the SLPA's role in the provision of services under the SLP's supervision and provides a framework to support decision-making related to the SLPA's actions. The Assistants Code of Conduct holds assistants to the same level of ethical conduct as the supervising SLP with respect to responsibilities to people served professionally, the public, and other professionals; however, it does not address ethics in supervision and other duties that are outside the SLPA Scope of Practice.

It is imperative that the supervising SLP and the SLPA are knowledgeable about the provisions of both codes and that they behave in a manner consistent with the principles and rules outlined in the ASHA Code of Ethics and the ASHA Assistants Code of Conduct. Because the ethical responsibility for students, patients, and clients--or for subjects in research studies--cannot be delegated, the supervising SLP takes overall responsibility for the actions of any SLPA when that SLPA is performing their assigned duties. If the SLPA engages in activities that violate the Assistants Code of Conduct, then the supervising SLP may be found in violation of the Code of Ethics--if it is found that adequate oversight has not been provided.

The following principles and rules of the Code of Ethics specifically address issues that are pertinent when an SLP supervises SLPAs in the provision of services or when conducting research. Failure to comply with principles and rules related to supervisory activities in the Code of Ethics or failure to ensure that the SLPA complies with the Assistants Code of Conduct could result in a violation of the Code of Ethics by the supervisor.

Principle of Ethics I, Rule of Ethics A: Individuals shall provide all clinical services and scientific activities competently.

Guidance:

The supervising SLP must ensure that all services, including those provided directly by the SLPA, meet practice standards, and are administered competently. The supervising SLP is responsible for providing training as needed or requested by the SLPA, identifying the services that the SLPA is competent to perform, monitoring the provision of those services to ensure quality of care, and intervening to correct the actions of the SLPA as needed.

Principle of Ethics I, Rule of Ethics D: Individuals shall not misrepresent the credentials of aides, assistants, technicians, support personnel, students, research interns, Clinical Fellows, or any others under their supervision, and they shall inform those they serve professionally of the name, role, and professional credentials of persons providing services.

Guidance:

The supervising SLP must ensure that students, patients, clients, caregivers, and research subjects are informed of the title and qualifications of the SLPA. This is not a passive responsibility; that is, the supervisor must make this information easily available and understandable to the students, patients, clients, caregivers, and research subjects and not rely on the individual to inquire about or ask directly for this information.

Principle of Ethics I, Rule of Ethics E: Individuals who hold the Certificate of Clinical Competence may delegate tasks related to the provision of clinical services to aides, assistants, technicians, support personnel, or any other persons only if those persons are adequately prepared and are appropriately supervised. The responsibility for the welfare of those being served remains with the certified individual.

Guidance:

The supervising SLP is responsible for providing appropriate and adequate direct and indirect supervision to ensure that the services provided are appropriate and meet practice standards. The SLP must consider student, patient, or client needs and the SLPA's knowledge and skills to determine what constitutes appropriate supervision, which may be more than the minimum required in state regulations. The SLP must document supervisory activities and adjust the amount and type of supervision to ensure that the Code of Ethics and Assistants Code of Conduct are followed.

Principle of Ethics I, Rule of Ethics F: Individuals who hold the Certificate of Clinical Competence shall not delegate tasks that require the unique skills, knowledge, judgment, or credentials that are within the scope of their profession to aides, assistants, technicians, support personnel, or any nonprofessionals over whom they have supervisory responsibility.

Guidance:

The supervising SLP is responsible for monitoring the professional activities performed by the SLPA and ensuring that they remain within the guidelines set forth in the ASHA SLPA Scope of Practice and applicable state and facility guidelines. In some cases, ASHA requirements may differ from state regulations. ASHA requirements do not supersede state licensure laws or affect the interpretation or implementation of such laws. The supervising SLP should ensure that the highest standards of ethical conduct are maintained.

Principle of Ethics II, Rule of Ethics A: Individuals who hold the Certificate of Clinical Competence shall engage in only those aspects of the professions that are within the scope of their professional practice and competence, considering their certification status, education, training, and experience.

Guidance:

The supervising SLP is responsible for ensuring that they have the skills and competencies needed to provide appropriate supervision. This includes completion of required continuing education in supervision and may include seeking additional continuing education in supervision to remain current in this area.

Principle of Ethics II, Rule of Ethics E: Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct research activities that exceed the staff member's certification status, competence, education, training, and experience.

Guidance:

The supervising SLP must ensure that the SLPA only performs those activities that are defined as appropriate for the level of training and experience and in accordance with applicable state regulations and facility guidelines. If the SLPA exceeds the practice role that has been defined for them, the SLP must intervene to correct the actions of the SLPA as needed.

Principle of Ethics III, Rule of Ethics D: Individuals shall not defraud through intent, ignorance, or negligence or engage in any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed.

Guidance:

States and third-party payers (e.g., insurance, Medicaid) vary in their policies regarding recognition of SLPAs as approved service providers, rate of reimbursement for assistant-level services, and other

policies. The supervising SLP and SLPA are jointly responsible for knowing and understanding federal and state regulations and individual payer policies, billing for services at the appropriate level, and providing the amount and type of supervision required by the payer when billing for SLPA services.

Principle of Ethics IV, Rule of Ethics I: Individuals shall not knowingly allow anyone under their supervision to engage in any practice that violates the Code of Ethics.

Guidance:

Because the SLPA provides services as an extension of those provided by the certified SLP, the SLP is responsible for ensuring the SLPA adheres to the Assistants Code of Conduct and monitoring the performance of the SLPA.

LIABILITY ISSUES

Individuals who engage in the delivery of services to persons with communication and swallowing disorders are potentially vulnerable to accusations of engaging in unprofessional practices. Therefore, ASHA recommends that SLPAs secure liability insurance as a protection for malpractice. SLPAs should consider the need for liability coverage. Some employers provide it for all employees. Other employers defer to the employee to independently acquire liability insurance. Some universities provide coverage for students involved in practicum and fieldwork. Obtaining or verifying liability insurance coverage is the SLPA's responsibility and needs to be done prior to providing services.

GUIDELINES FOR SLP SUPERVISION OF SLPAS

For SLPAs to practice, a supervising SLP must be identified. The following indicates considerations for the supervising SLP:

- qualifications for the supervising SLP
- expectations of the supervising SLP
- considerations for the ratio of SLPs to SLPAs
- requirements for frequency and duration of supervision.

MINIMUM QUALIFICATIONS FOR A SUPERVISING SLP

The minimum qualifications for an SLP to supervise the SLPA include the following:

- Hold the Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) from ASHA and/or possess the necessary state-credentials
- Completion of a minimum of 9 months of experience after being awarded ASHA certification (i.e., completion of the 9-month Clinical Fellowship followed by 9 months of experience)
- Completion of a minimum of 2 hours of professional development in clinical instruction/supervision
- Adherence to state guidelines for supervision of the SLPA

- It is recommended that the professional development course taken in clinical instruction or supervision include content related to the supervision of SLPAs

EXPECTATIONS FOR THE SUPERVISING SLP

In addition to the minimum qualifications listed above, the following are additional roles and behavior that are expected of the supervising SLP:

- Adhere to the principles and rules of the ASHA Code of Ethics (ASHA, 2016a)
- Adhere to applicable licensure laws and rules regulating the practice of speech-language pathology
- Conduct ongoing competency evaluations of the SLPAs
- Provide and encourage ongoing education and training opportunities for the SLPA consistent with competency and skills required to meet the needs of the students, patients, and clients served
- Develop, review, and modify treatment plans for students, patients, and clients that the SLPA implements under the supervision of the SLP
- Make all case management decisions
- Adhere to the supervisory responsibilities for SLPs
- Retain legal and ethical responsibility for all students, patients, and clients served
- Maintain an active interest in collaborating with SLPAs

SUPERVISION OF SLPAS

The relationship between the supervising SLP and the SLPA is paramount to the welfare of the student, patient, or client. Because the clinical supervision process is a close, interpersonal experience, the supervising SLP should participate in the selection of the SLPA when possible. It is the SLP's responsibility to design and implement a supervision system that protects the students', patients', and clients' care and that maintains the highest possible standards of quality. The amount and type of supervision must meet (a) minimum requirements as specified in this document and (b) state requirements. Supervision must be based on (a) the needs, competencies, skills, expectations, philosophies, and experience of the SLPA and the supervisor; (b) the needs of students, patients, and clients served; (c) the service setting; (d) the tasks assigned; and (e) other factors. More intense supervision, for example, would be required in such instances as the orientation of a new SLPA; initiation of a new program, equipment, or task; or a change in student, patient, or client status (e.g., medical complications). Functional assessment of the SLPA's skills with assigned tasks should be an ongoing, regular, and integral element of supervision. SLPs and SLPAs should treat each other with respect and should interact in a manner that will provide the best possible outcomes for student, patient, and client care. It is also critical that the SLP and SLPA understand that their language, culture, and experiences will be different within the dyad and across the triad (SLP, SLPA, and patient, client, and student). It is expected that the practitioners stay grounded in cultural responsiveness and culturally responsive practices when engaged in all aspects of interactions.

As the SLP's supervisory responsibility increases, overall responsibilities will change because the SLP is responsible for the students, patients, and clients as well as supervision of the SLPA. Therefore, adequate time for direct and indirect supervision of the SLPA(s) and caseload management must be allotted as a critical part of the SLP's workload. The purpose of the assistant level position is not to significantly increase the caseload size for SLPs. The specialized skills should be utilized to support the SLP with the care of individuals on the SLP's caseload. Under no circumstances should an assistant have their own caseload.

Diagnosis, treatment, and support of the students, patients, and clients served remains the legal and ethical responsibility of the supervisor. Therefore, the level of supervision required is considered the minimum level necessary for the supervisor to retain direct contact with the students, patients, and clients. The supervising SLP is responsible for designing and implementing a supervisory plan that protects consumer care, maintains the highest quality of practice, and documents the supervisory activities.

SLP-TO-SLPA RATIO

The supervising SLP should determine the appropriate number of assistants whose practice can be supervised within their workload. Although more than one SLP may provide supervision of an SLPA, it is recommended that the SLP not supervise or be listed as a supervisor for more than three full-time equivalent (FTE) SLPAs in any setting. The number of SLPAs who can be appropriately supervised by a single SLP will depend on a variety of factors including caseload characteristics, SLPA experience, and SLP experience. The SLP is responsible for determining how many SLPAs can be supervised while maintaining the highest level of quality for services provided. When multiple SLPs supervise a single SLPA, it is critical that the supervisors coordinate and communicate with each other so that they collectively meet minimum supervisory requirements and ensure that they maintain the highest quality of services.

REQUIREMENTS FOR THE FREQUENCY AND AMOUNT OF SUPERVISION

Supervision requirements may vary based on a variety of factors. The amount and type of supervision required must be consistent with (a) the SLPA's skills and experience; the needs of the students, patients, and clients; (c) the service setting; (d) the tasks assigned; and (e) the laws and regulations that govern SLPAs. To ensure adequate and appropriate supervision, the supervising SLP should outline their expectations in collaboration with the SLPA. As the relationship continues to develop over time, the SLP/SLPA team can decide how and to what extent supervision is needed.

Before the SLPA begins to provide support independently, the supervising SLP must have first contact with all individuals on the caseload. "First contact" includes establishing rapport, gathering baseline data, and securing other necessary documentation to begin (or continue) the plan of care for the student, patient, or client. As the SLP/SLPA team dynamic continues to develop beyond the initial onboarding, minimum ongoing supervision must always include documentation of direct supervision provided by the SLP for each student, patient, or client **at least every 30–60 days (depending on frequency of visits/sessions and setting).**

The SLP can adjust the amount of supervision if they determine that the SLPA has met appropriate competencies and skill levels in treating students, patients, and clients who have a variety of communication disorders. Data on every student, patient, and client serviced by the SLPA should be reviewed by the supervisor in regular intervals and can be considered “indirect supervision.” Supervisors should arrange designated days and times of day (morning or afternoon) in such a way that all students, patients, and clients receive direct contact with the supervising SLP.

The supervising SLP must accurately document and regularly record all supervisory activities, both direct and indirect. Further, 100% direct supervision (synchronous or “live” telesupervision is acceptable) of SLPAs for medically fragile students, patients, or clients is required.

The supervising SLP is responsible for designing and implementing a supervisory plan, which ensures that the SLP maintains the highest standard of quality care for students, patients, and clients. A written supervisory plan is a tangible way to document progress and outline the practices of the supervising SLP and the SLPA. Care of the student, patient, or client remains the supervisor’s responsibility.

Direct supervision means in-view observation and guidance while the SLPA is performing a clinical activity. This can include the supervising SLP viewing and communicating with the SLPA via telecommunication technology as the SLPA provides clinical services, this scenario allows the SLP to provide ongoing immediate feedback. Direct supervision does not include reviewing an audio or video recorded session later.

Supervision feedback should provide information about the quality of the SLPA's performance of assigned tasks and should verify that clinical activity is limited to tasks specified in the list of an SLPA's ASHA-approved responsibilities. Information obtained during direct supervision may include, but is not limited to, data relative to (a) agreement (reliability) between the SLPA and the supervisor on correct or incorrect recording of target behavior, (b) accuracy implementing assigned treatment procedures, (c) accuracy recording data, and (d) ability to interact effectively with the student, patient, or client during presentation and implementation of assigned procedures or activities.

Indirect supervision does not require the SLP to be physically present or available via telecommunication while the SLPA is providing services. Indirect supervisory activities may include (a) reviewing demonstration videos; (b) reviewing student, client, or patient files; (c) reviewing and evaluating audio or video recorded sessions; and/or (d) conducting supervisory conferences either in person or via telephone and/or live, secure virtual meetings. The SLP will review each care plan as needed for timely implementation of modifications.

An SLPA may not perform tasks when a supervising SLP cannot be reached by personal contact, that is, phone, pager, or other immediate or electronic means. If, for any reason (i.e., maternity leave, illness, change of jobs) the supervisor is no longer available to provide the level of supervision stipulated, then the SLPA may not perform assigned tasks until an ASHA-certified and/or state-licensed SLP with experience and training in supervision has been designated as the new supervising SLP.

Any supervising SLP who will not be able to supervise an SLPA for more than 1 week will need to (a) inform the SLPA of the planned absence, (b) notify the employer or site administrator that other arrangements for the SLPA's supervision of services need to be made while the SLP is unavailable, and (c) inform the students, patients, or clients that their speech-language services will be rescheduled.

In some instances, multiple SLPs may supervise the SLPA. Those doing so must give special consideration to, and think carefully about, the impact that this supervisory arrangement may have on service providers. It is recommended that the SLPA not be supervised by more than three SLPs.

CONCLUSION

This document aims to provide guidance for the use of SLPAs in appropriate settings, thereby increasing access to timely and efficient speech-language services. The supervising SLP or SLPs are responsible for staying abreast of current guidelines (including state credentialing guidelines) and ensuring the quality of services rendered. Given that standards, state credentialing (e.g., licensure, etc.), and practice issues vary from state to state, this document's purpose is to provide information regarding ASHA's guidelines for the use of SLPAs for the treatment of communication disorders across practice settings.

DEFINITIONS

accountability—refers to being legally responsible and answerable for actions and inactions of self or others during the performance of a task by the SLPA.

aide/technician—individual who has completed on-the-job training, workshops, and other related tasks and who works under the direct supervision of an ASHA-certified SLP. See also *speech-language pathology aide/technician*.

assessment—procedures implemented by the SLP for the differential diagnosis of communication and swallowing disorders, which may include, per the [ASHA Speech-Language Pathology Scope of Practice \[PDF\]](#), “culturally and linguistically appropriate behavioral observation and standardized and/or criterion-referenced tools; use of instrumentation; review of records, case history, and prior test results; and interview of the individual and/or family to guide decision making” (ASHA, 2016b, p. 11). *Assessments* may also be referred to as *evaluations*, *tests*, and so forth.

cultural responsiveness—provides individuals with “a broader perspective from which to view our behaviors as they relate to our actions with individuals across a variety of cultures that are different from our own”. (Hyter and Salas-Provance, 2019, p. 7)

culturally responsive practices—Care that takes the client's cultural perspectives, beliefs, and values into consideration in all aspects of education and/or service provision. Leininger (2002) defines this term as “the explicit use of culturally based care and health knowledge in sensitive, creative, and meaningful ways”.

direct supervision—in-view observation and guidance by an SLP while the SLPA performs an assigned activity. Direct supervision activities performed by the supervising SLP may include, but are not limited to, the following: observing a portion of the screening or treatment procedures performed by the SLPA, coaching the SLPA, and modeling for the SLPA. The supervising SLP must be present during all services provided to a medically fragile client by the SLPA (e.g., on-site or via synchronous telesupervision). The SLP can view and communicate with the student, patient, or client and SLPA via “real-time” telecommunication technology to supervise the SLPA, giving the SLP the opportunity to provide immediate feedback. This does not include reviewing a recorded session later.

indirect supervision—the monitoring or reviewing of an SLPA’s activities outside of observation and guidance during direct services provided to a student, patient, or client. Indirect supervision activities performed by the supervising SLP may include, but are not limited to, demonstration, records review, review and evaluation of audio or video recorded sessions, and interactive conferences that may be conducted by telephone, email, or other forms of telecommunication (e.g., virtual platforms).

interpretation—summarizing, integrating, and using of data for the purpose of clinical decision making, which may only be done by SLPs. SLPAs may summarize objective data from a session to the family or team members.

medically fragile—a term used to describe an individual who is acutely ill and in an unstable health condition. If an SLPA treats such an individual that treatment requires 100% direct supervision by an SLP.

plan of care—a written service plan developed and monitored by the supervising SLP to meet the needs of an individual student, patient, or client. The plan may address needs for screening, observation, monitoring, assessment, treatment, and other services. Examples of care plans include Individualized Education Plans (IEPs), Individualized Family Service Plans (IFSPs), rehabilitation services plans, and so forth.

progress monitoring—a process of collecting, graphing, and reviewing data on an individual's target skills to assess their response to treatment and then comparing their growth to a target trend line or goal to determine whether sufficient progress is being made. Definition adapted from Progress Monitoring webpage. (*National Center on Intensive Intervention*, n.d.)

screening—a pass-fail procedure to identify, without interpretation, students, patients, or clients who may require further assessment following specified screening protocols developed by and/or approved by the supervising SLP.

social determinants of health—the conditions in which people are born, grow, live, work, and age, including the health system. These circumstances are shaped by the distribution of money, power, and resources at global, national, and local levels, which are themselves influenced by policy choices. The social determinants of health are mostly responsible for health inequities—the unfair and avoidable differences in health status seen within and between countries. (World Health Organization, n.d.)

speech-language pathology aides/technician—an individual who has completed on-the-job training, workshops, and other related tasks and who works under the direct supervision of an ASHA-certified SLP; this is another type of support personnel that may not meet the requirements as an ASHA certified SLPA. See also aide/technician

speech-language pathology assistant—an individual who, following academic coursework, clinical practicum, and credentialing can perform tasks prescribed, directed, and supervised by ASHA-certified SLPs.

supervising speech-language pathologist—an SLP who holds a Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) from ASHA and/or a state licensure (where applicable), has an active interest and desire to collaborate with support personnel, has a minimum of 9 months of experience after being awarded ASHA certification, has completed the 2-hour supervision requirement per the [ASHA Certification Standards](#) (ASHA,2020a) and adheres to state credentialing guidelines for supervision of the SLPA, and who is licensed and/or credentialed by the state (where applicable).

supervision—the provision of direction and evaluation of the tasks assigned to an SLPA. Methods for providing supervision include direct supervision, indirect supervision, and telesupervision.

support personnel—these individuals perform speech-language tasks as prescribed, directed, and supervised by ASHA-certified SLPs. There are different levels of support personnel based on training and scope of responsibilities. The term support personnel includes SLPAs and speech-language pathology aides/technicians. ASHA is operationally defining these terms for ASHA resources. Some states use different terms and definitions for support personnel (e.g., *assistant speech-language pathologist*, *speech-language pathologist paraprofessional*, and *SLP assistant*, among others).

telepractice—applying telecommunications technology to the delivery of professional services at a distance by linking clinician to client, or clinician to clinician, for assessment, intervention, and/or consultation (ASHA, n.d.).

telesupervision—the SLP can view and communicate with the patient and SLPA in real time via telecommunication software (e.g., virtual platforms), webcam, telephone, and similar devices and services to supervise the SLPA. This enables the SLP to give immediate feedback. Telesupervision does not include reviewing a recorded session later.

REFERENCES

American Speech-Language-Hearing Association. (n.d.-a). *Bilingual Service Delivery* (Practice Portal). Retrieved February 4, 2022, from <https://www.asha.org/practice-portal/professional-issues/bilingual-service-delivery/>

American Speech-Language-Hearing Association. (n.d.-b). *Cultural Competence* (Practice Portal).

Retrieved February 4, 2022, from <https://www.asha.org/practice-portal/professional-issues/cultural-competence/>

American Speech-Language-Hearing Association. (2016a). *Code of ethics* [Ethics].

<https://www.asha.org/policy/et2016-00342/>

American Speech-Language-Hearing Association. (2016b). *Scope of practice in speech-language pathology* [Scope of Practice]. www.asha.org/policy

American Speech-Language-Hearing Association (2017). *Issues in ethics: Cultural and linguistic competence*. www.asha.org/Practice/ethics/Cultural-and-Linguistic-Competence

American Speech-Language-Hearing Association. (2020a). *2020 Standards and implementation procedures for the Certificate of Clinical Competence in Speech-Language Pathology*.

<https://www.asha.org/certification/2020-slp-certification-standards/>

American Speech-Language-Hearing Association. (2020b). *Assistants code of conduct*.

<https://www.asha.org/policy/assistants-code-of-conduct/>

Hyter, Y. & Salas-Provance, M. (2019). *Culturally Responsive Practices in Speech, Language, and Hearing Sciences*. San Diego, CA: Plural Publishing.

Ladson Billings, G. (1994). *The Dreamkeepers*. San Francisco, CA: Josey Bass.

Leininger, M. (2002). Theory of culture care and the ethnonursing research method. In M. Leininger & M. R. McFarland (Eds.), *Transcultural nursing: Concepts, theories, research and practice* (pp. 71–98). New York, Ny: McGraw-Hill.

National Center on Intensive Intervention (n.d.). Progress Monitoring.

<https://intensiveintervention.org/data-based-individualization/progress-monitoring>

Vose AK, Kesneck S, Sunday K, Plowman E, & Humbert I. (2018). A Survey of clinician decision making when identifying swallowing impairments and determining treatment. *Journal of Speech Language Hearing Research*, 61(11), 2735–2756.

World Health Organization (n.d.). Social determinants of health. www.who.int/health-topics/



MEMORANDUM

DATE	February 1, 2023
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 12(i): Discussion and Possible Action to Regulations Regarding Speech-Language Pathology Assistant (SLPA) Program and Academic Requirements as stated in Title 16, California Code of Regulations (CCR) sections 1399.170.4, 1399.170.10, and 1399.170.11

Background

This proposed regulation will specify qualifications for SLPA training program directors, increase the number of field work experience hours required, and modify the full-time work experience required for out-of-state SLPA applicants.

The 45-day public comment period began on November 11, 2022, and ended on December 27, 2022. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) did not hold a public hearing for this proposed regulatory action nor was one requested from any interested person or their authorized representative.

The Board received five (5) written comments during and after the initial 45-day comment period.

- One (1) in support,
- Two (2) expressed concerns with the proposed regulatory changes or recommended changes,
- One (1) inquired on the regulatory process, and
- One (1) not related to the proposed regulatory changes.

The Administrative Procedure Act (APA) does not require the Board to respond to written comments in support of a regulatory action during the final rulemaking process. However, the Board is required to respond to written comments that object or make recommendations regarding the regulatory action or the procedures followed by the Board in proposing the regulatory action.

Summary of Comments and Draft Board Response

Summary: The Board received a comment to express support to proposed changes to SLPA supervision.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because SLPA supervision is regulated by other regulations that are not involved in this proposed action.

Summary: The Board received a comment asking for guidance on public participation for public comment.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided. *Note: Staff response to this comment is provided with the comment in Attachment A.*

Summary: The Board received a comment inquiring if the requirements specified in the proposed regulations affect currently licensed SLPAs and if a bachelor's degree is the new education requirement to become licensed SLPA in California.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided.

The proposed regulation will not change requirements for an already licensed SLPA nor will the Board require a bachelor's degree to be a licensed SLPA in California. This proposed regulation seeks to increase the number of the field work experience hours required for applicants who apply for a SLPA license after the regulations' effective date. It also specifies qualifications for Board-approved SLPA training program directors and aligns full-time work experience with statutory standard for speech-language pathologist. The Board will continue to allow applicants to complete their education at a Board-approved SLPA program, bachelor's degree program in speech-language pathology or communication disorders from an accredited institution, or comparable out-of-state SLPA program.

Summary: The Board received a comment to express support and recommend changes to the proposed regulatory text. The comment suggested removing in sections 1399.170.10(c)(2) and 1399.170.11(c) the reference to ASHA's Spring 1996 SLPA Guidelines and replace it with their 2022 SLPA Scope of Practice. The comment also expressed support and recommended changes to proposed changes to SLPA supervision.

Board Response: The Board determined to not make changes to 2 sections in the proposed regulatory text to accommodate the comment regarding references to an outdated ASHA document because the outdated document is also incorporated by

reference in a section that was not included in this rulemaking package, 16 CCR section 1399.170.6. The Board intends to update all three sections that cite to an outdated ASHA document in the one rulemaking to be able to meet the Office of Administrative Law's "consistency" standard. The published notice for this rulemaking did not mention 16 CCR section 1399.170.6 as being changed by this rulemaking, as updating the outdated reference is not a goal of this rulemaking. To change 16 CCR section 1399.170.6 the Board would have to withdraw this package and re-submit it with a proposed revision to section 1399.170.6 included, which would delay the other important changes in this rulemaking to the qualifications for SLPA training program directors, increasing the number of the required field work experience, and modifying the full-time work experience for out-of-state SLPA applicants. The Board declines to update the two references to an outdated ASHA document in this rulemaking, and intends to pursue updating the references to an outdated ASHA document in 16 CCR sections 1399.170.6, 1399.170.10(c)(2), and 1399.170.11(c) in a separate rulemaking.

The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding SLPA supervision because SLPA supervision requirements are covered in regulations not mentioned in this proposed action.

Action Requested

Staff recommends the Board review and discuss the provided materials. The Board may wish to determine whether or not to approve the Board's responses to comments as currently drafted, or propose additional changes, and direct Board Staff to prepare the necessary documents to complete the rulemaking process.

Suggested Motion Language

Move to approve the proposed Board responses to Comments, and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations at Title 16, CCR Sections 1399.170.4, 1399.170.10, and 1399.170.11, as noticed.

Attachment A: Speech-Language Pathology Assistants Program/Academic Public Comments

Attachment B: Speech-Language Pathology Assistants Program/Academic Order of Adoption

Speech-Language Pathology Assistant (SLPA)
Program and Academic Requirements
Public Comments

Initial Public Comments
Received November 11, 2022 – December 27, 2022

Late Public Comment
Received January 3, 2023

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**

Speech-Language Pathology Assistant
Program and Academic Requirements

ORDER OF ADOPTION

Amend section 1399.170.4 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.4. Application Eligibility for Approval of Speech-Language Pathology Assistant Training Programs.

(a) To be eligible for approval by the Board as a speech-language pathology assistant training program (hereinafter referred to as “program”), the sponsoring institution shall be accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(b) To be eligible for program approval by the Board, the program director must meet the following requirements:

(1) hold a current, active, and unrestricted California license,

(2) have practiced speech-language pathology for at least five (5) years, and

(3) not be the subject of Board disciplinary action within the past five (5) years.

(c) For the purposes of this section, the terms “disciplinary action” and “restricted California license” shall both mean that the license was revoked, suspended, placed on probation, or publicly reprovved.

(bd) An educational institution seeking approval of a speech-language pathology assistant program shall:

(1) Notify the Board in writing, by submitting a request from the officially designated representative of the sponsoring institution and the speech-language pathology assistant program director, of its intent to offer a new program.

(2) No later than six (6) months prior to the enrollment of students, submit a formal proposal to the Board demonstrating how the program will meet the requirements of Sections 1399.170.5. through 1399.170.10. The Board, at its sole discretion, may retroactively approve programs that enrolled students prior to the effective date of the regulations.

(ee) The Board shall review the request and formal proposal and may thereafter grant or deny approval. The Board may request additional information to evaluate the request for approval and shall notify the program of its decision in writing within sixty (60) days from receipt of all requested documents.

(df) A material misrepresentation by the program of any information required to be submitted to the Board may be grounds for denial of approval or removal of the program from the approved list.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code.
Reference: Section 2538.1(b)(2), Business and Professions Code.

Amend section 1399.170.10 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.10. Required Curriculum.

(a) A program's curriculum shall not be implemented or revised until it has been approved by the Board.

(b) The curriculum shall be designed so that a speech-language pathology assistant who completes the program will have the knowledge and skills necessary to function in accordance with the minimum standards set forth in Section 2538.1(b)(3) of the Business and Professions Code.

(c) The curriculum shall consist of not less than sixty (60) semester units or ninety (90) quarter units, which shall include the following:

(1) Twenty (20) to thirty (30) semester units or thirty (30) to forty-five (45) quarter units in general education requirements, including but not limited to, basic communication skills, knowledge of mathematics, liberal arts, and biological, behavioral, and ~~health~~health sciences.

(2) Thirty (30) to forty (40) semester units or forty-five (45) to sixty (60) quarter units in course work that satisfies the competencies defined in the American Speech-Language-Hearing Association's Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants Appendix C - Speech-Language Pathology Assistant Suggested Competencies (1996, Spring) including the following observation and field work experiences:

(A) A minimum of fifteen (15) clock hours of directed observation; and

(B) A minimum of ~~seventy (70)~~one hundred (100) clock hours of field work experience.

(d) The course of instruction shall be presented in semester or quarter units under the following formula:

(1) One (1) hour of instruction in theory each week throughout a semester or quarter equals one (1) unit.

(2) Three (3) hours of field work practice each week throughout a semester or quarter equals one (1) unit.

Note: Authority cited: Sections 2531.95 and 2538.1(a), Business and Professions Code. Reference: Section 2538.1(b)(2), Business and Professions Code.

Amend section 1399.170.11 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.170.11. Qualifications for Registration as a Speech-Language Pathology Assistant.

To be eligible for registration by the Board as a speech-language pathology assistant, the applicant must possess at least one of the following qualifications:

(a) An associate of arts or sciences degree from a speech-language pathology assistant program accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, and approved by the Board; or

(b) Evidence of completion of a bachelor's degree program in speech-language pathology or communication disorders from an institution listed in the "Accredited Institutions of Postsecondary Education" handbook issued by the American Council on Education, and completion of the field work experience as required in Section 1399.170.10(c)(2)(B) from a Board-approved program, or completion of a minimum of ~~seventy (70)~~ one hundred (100) hours of field work experience or clinical experience equivalent to that required in Section 1399.170.10(c)(2)(B) in a bachelor's degree program as recognized in this subsection.

(1) The equivalent field work hours or clinical experience completed in a bachelor's degree program in speech-language pathology or communication disorders shall be evaluated for verification by the current training program director.

(~~2A~~) In the event that the field work experience or clinical experience completed in the bachelor's degree program is deemed deficient by the authorized representative of a board-approved speech-language pathology assistant training program, the applicant may petition the Board for reconsideration.

(3B) In lieu of completion of the ~~seventy (70)~~one-hundred (100) hours of field work experience or clinical experience in a bachelor's degree program as defined in subsection (b) above, the Board may consider the completion of ~~nine months~~thirty-six (36) weeks of full-time work experience performing the duties of a speech-language pathology assistant enumerated in paragraph (4) of subsection (b) of Section 2538.1 of the Business and Professions Code as equivalent to the required clinical training.

(c) Evidence of completion of an equivalent speech-language pathology assistant associate of arts or science degree program, which includes the competencies listed in the American Speech-Language-Hearing Association's Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants, Appendix C - Speech-Language Pathology Assistant Suggested Competencies (1996, Spring).

Note: Authority cited: Sections 2531.95 and 2538.1, Business and Professions Code.
Reference: Section 2538.1~~(b)(2)~~ and 2538.3~~(a)~~, Business and Professions Code.