

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2014-1125-02	REGULATORY ACTION NUMBER 2016-0915-02SR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		For use by Office of Administrative Law (OAL) only	
NOTICE		REGULATIONS	

2016 SEP 15 P 2:50
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Hearing Aid Dispensers Continuing Education	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2016-0211-025
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 1399.140.1
	AMEND 1399.140, 1399.141, 1399.142, 1399.143, 1399.144
TITLE(S) 16	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
9/21/15 - 10/5/15, 6/1/16 - 6/16/16, 8/10/16 - 8/25/16, 8/25/16 - 9/9/16, 9/29/2016 to 10/14/16

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input checked="" type="checkbox"/> Other (Specify) <i>Awet Kidane, Director, Dept. of Consumer Affairs</i>		

7. CONTACT PERSON

<i>Karen Robison</i>	TELEPHONE NUMBER <i>916 263 2291</i>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <i>Karen.Robison@dca.ca.gov</i>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE <i>9-15-16</i>
TYPED NAME AND TITLE OF SIGNATORY Paul Sanchez, Executive Officer	

For use by Office of Administrative Law (OAL) only

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

**Title 16, Chapter 13.3
Hearing Aid Dispensers Regulations
Article 7. Continuing Education
Order of Adoption**

**Amend Sections 1399.140 – 1399.144 and Adopt Section 1399.140.1
in Article 7 of Division 13.3 of Title 16 as follows:**

Section 1399.140. Continuing Education Required.

(a) Any hearing aid license that expires on or after July 1, 2017, Each dispenser is required to complete at least six (6) twelve (12) hours of continuing education from a provider approved under Section 1399.141 below during each calendar year annual renewal period. All holders of licenses shall complete nine (9) hours of continuing education per year, and

(1) Not more than three (3) hours of continuing education may be credited in any of the following areas related to hearing aids: related or indirect client care courses as provided in Section 1399.140.1 ethics (including the ethics of advertising and marketing) or business practices.

(2)(A) No more than six (6) hours of the required continuing education may be credited for self-study or correspondence-type coursework, e.g., recorded courses, home study materials, or computer courses.

(B) Self-study does not include live courses. A self-study course does not mean a course taken at an accredited university towards a degree, nor does it include any interactive courses offered via electronic media where the course affords participants the opportunity to interact with an instructor and/or other course participants.

(b) Records showing completion of each continuing education course shall be maintained by the dispenser for two (2) years following the renewal period in which it was earned.

(b) (c) Each dispenser renewing his or her license under the provisions of Section 2538.53 of the Code shall be required to submit proof satisfactory to the Board of compliance with the provisions of this article. Records shall be provided to the Board in response to a compliance audit.

(e) (d) Such proof Verification of compliance shall be submitted documented at the time of license renewal on a form provided by the Board.

(d) Any dispenser who cannot complete the minimum hours required under subsection (a) may have his or her license renewed, but shall make up any deficiency during the following year. If the dispenser does not complete the deficient hours in addition to the minimum hours for the current year, he or she shall be ineligible for the next renewal of his or her license unless such dispenser applies for and obtains a waiver pursuant to Section 1399.144 below.

(e) This article shall not apply to any dispenser who is renewing a license for the first time following was the issuance of an initial a permanent license for the first time within the preceding calendar year.

(f) Any person whose hearing aid dispenser's license has been expired for two years or more shall complete the required hours of approved continuing education for the prior two years before such license may be restored.

Note: Authority cited: Section 2538.18, Business and Professions Code. Reference: Section 2538.18, Business and Professions Code.

Section 1399.140.1. Continuing Education Course Content.

(a) The content of a continuing education course shall pertain to direct, related, or indirect patient/client care. Course content shall not focus on equipment, devices, or other products of a particular publisher, company, or corporation.

(1) Direct client care courses cover current practices in the fitting of hearing aids.

(2) Indirect patient/client care courses cover practical aspects of hearing aid dispensing (e.g., legal or ethical issues (including the ethics of advertising and marketing), consultation, record-keeping, office management, and managed care issues).

(3) Courses that are related to the discipline of hearing aid dispensing may cover general health condition or educational course offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, service delivery models, interdisciplinary case management issues, or medical pathologies that also result in hearing difficulties.

(b) Examples of courses that are considered outside the scope of acceptable course content include: personal finances and business matters, marketing and sales, and office operations that are not for the benefit of the consumer.

Note: Authority cited: Section 2531.95, Business and Professions Code. Reference: Section 2538.18, Business and Professions Code.

1399.141. Approval of Continuing Education Providers.

(a) In order to be approved by the Board as a continuing education provider the following information shall be submitted with an application, Continuing Education Course Approval Application for Hearing Aid Dispensers, form CEP 100 (Rev 05/16), incorporated herein by reference, provided by the Board:

(1) Remit the \$50 per subject continuing education course approval fee.

(2) Description of course content of all courses to be offered. The course content for all courses, including ethics, shall be current practices as related to the fitting of hearing aids for aiding or compensating for impaired human hearing or any of the subjects listed in subsection (a)(1) of section 1399.140, within the scope of practice for a dispenser as defined by Section 2538.11 of the Code and generally for the benefit of the consumer. The course content shall be information related to the fitting of hearing aids, and this information shall be at a level above that basic knowledge required for licensure as set forth in Section 2538.25 of the Code, except that basic knowledge which would serve as a brief introduction to the course. The phrase "at a level above that basic knowledge" means any subjects, issues, topics, theories, or findings that are more advanced than the entry level of knowledge of the practice of fitting or selling hearing aids as provided in Section 2538.11 of the Code described in those basic subjects listed in subdivision (b) of Section 3353.

~~(23) Method of instruction for course(s) offered.~~ Teaching methods for each course or program shall be described, e.g., lecture, seminar, audiovisual, simulation, etc.

~~(34) Education objectives.~~ Each course or program shall clearly state the educational objective that can be realistically accomplished within the framework of the course or program, and the number of hours of continuing education credit which may be obtained by completion of a specified course.

~~(45) Qualifications of instructors.~~ Instructors shall be qualified to teach the specified course content by virtue of their prior education, training and experience. A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:

(A) A license, or, if in a setting or state which does not require licensure, legal authorization to provide services in an area related to the subject matter of the course. The license shall be current, valid, and free from restrictions due to disciplinary action by the Board or any other health care regulatory agency;

(B) Training or experience in teaching courses in the subject matter; or

(C) At least two years' experience in an area related to the subject matter of the course. A resume of each instructor shall be forwarded with the application for approval.

~~(56) Evaluation.~~ Each course or program shall include an evaluation method which documents that educational objectives have been met, such as, but not limited to, a written evaluation or written examination by each participant.

~~(67) Open to Licensees.~~ Only those courses or programs which are open to all licensed hearing aid dispensers shall be approved by the Board.

(b) Providers shall maintain a record of attendance of each participant who is licensed as a hearing aid dispenser ~~and submit that record to the Board no later than December 31 of each calendar year for a period of four (4) years, and shall provide such record to the Board upon request.~~ The record shall indicate those dispensers who have complied with the requirements of the course or program offered.

(c) Applications for approval of a continuing education provider shall be submitted to the Board at its Sacramento office allowing for sufficient time for review and prior approval as follows: at least 45 days before the date of the first course or program offering to be approved. The Board will inform the provider within 30 days of receipt of the application whether the application is complete or deficient. The provider shall cure any deficiency within 30 days of such notice. The Board will approve or deny the application within 30 days of the date that the application is complete, or the last date to cure the deficiency. A provider may appeal to the Executive Officer of the Board the denial of approval of any course. Such appeal shall be filed with the Executive Officer of the Board not more than 30 days after the date of notice of such denial. The Executive Officer shall notify the provider of the final decision within ten (10) days of the appeal.

(d) Any change in the course content or instructor shall be reported to the Board on a timely basis.

(e) The Board may withdraw the approval of any provider for failure to comply with the provisions of this section.

(f) Each provider shall submit to the Board on an annual basis a description or outline of each approved course to be offered the following year and a resume of any new instructor who will be presenting the course. This information shall be submitted

prior to the re-offering of the course within the ~~time-limit~~ timeframe set forth in subsection (c).

Note: Authority cited: Section 2538.18, Business and Professions Code. Reference: Sections 2538.18 and 2538.57, Business and Professions Code.

1399.142. Sanctions for Noncompliance.

(a) Any dispenser who does not complete the required number of hours of continuing education will be required to make up any deficiency during the next calendar year and renewal cycle. Such dispenser shall document to the Board the completion of any deficient hours. Any dispenser who fails to make up the deficient hours and the hours of required continuing education for the current year shall be ineligible for the next renewal of his or her license to dispense hearing aids until such time as the deficient hours of continuing education are documented to the Board.

(b) In addition to any other sanction, ~~F~~fraudulently misrepresenting compliance with the continuing education requirements of Section 2538.18 of the Code and this article shall constitute "obtaining a license by fraud or deceit" as those terms are used in Section 2533, subd. (b), of the Code.

Note: Authority cited: Section 2531.06 and 2538.18 Business and Professions Code. Reference: Section 2538.18, Business and Professions Code.

1399.143. Repetition of Courses.

Credit will not be given toward approved continuing education coursework which is substantially similar to coursework which was successfully completed within the preceding ~~three (3)~~ two (2) years and used to meet the continuing education requirements of this article and Section 2538.18 of the Code.

Note: Authority cited: Section 2538.18, Business and Professions Code. Reference: Section 2538.18, Business and Professions Code.

1399.144. Waiver of Requirement.

(a) The Board, ~~may,~~ in its discretion, exempt from the continuing education requirements, any dispenser who for reasons of health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted to the Board for its consideration.

(b) Any dispenser who submits an application for a waiver which is denied by the Board, ~~shall otherwise comply with the provisions of this article or be subject to the sanctions for noncompliance set forth in Section 1399.142.~~

Note: Authority cited: Section 2538.18, Business and Professions Code. Reference: Section 2538.18, Business and Professions Code.

13. NAME OF INSTRUCTORS – *MUST ATTACH A RESUME OR CURRICULUM VITAE FOR EACH INSTRUCTOR*

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

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.

PROVIDER CONTACT NAME (PRINTED)

DATE

SIGNATURE