Hearing Aid Dispensers Law Regarding Continuing Education:

3327.5. Continuing Education

All holders of licenses to sell or fit hearing aids shall continue their education after receiving the license. The bureau shall provide by regulation, as a condition to the renewal of a license, that licensees shall submit documentation satisfactory to the bureau that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the bureau or by other means defined as equivalent by the bureau.

Title 16, Chapter 13.3
Hearing Aid Dispensers Regulations
Article 7. Continuing Education
Proposed Language

Amend Sections 1399.140 – 1399.143 of Article 6 of Division 13.3 of Title 16 as follows:

Section 1399.140 - Continuing Education Required.

(a) Each dispenser is required to complete at least ~~six (6)~~ nine (9) hours of continuing education from a provider approved under Section 1399.141 below during each ~~calendar year~~ preceding renewal period. ~~For all licenses which expire on and after January 1, 1997, all holders of licenses shall complete nine (9) hours of continuing education per year, and n~~ Not more than three (3) hours of continuing education may be credited in any of the following areas related to hearing aids: ethics (including the ethics of advertising and marketing) or business practices. Not more than three (3) hours may be credited for coursework offered on-line, via the Internet. Credit will not be given for self study or correspondence-type courses, e.g., tape recorded courses, home study materials, videotape materials, or computer courses.

(b) Records showing completion of each continuing education course shall be maintained by the dispenser for three (3) years following the renewal period. Records shall be provided to the Bureau in response to a compliance audit conducted.

~~(b)~~ (c) Each dispenser renewing his or her license under the provisions of Section 3451 of the code shall be required to submit proof satisfactory to the bureau of compliance with the provisions of this article.

~~(c)~~ (d) Such proof shall be submitted at the time of license renewal on a form provided by the bureau.

~~(d)~~ (e) ~~Any~~ For a license that expires on or before December 31, 2008, a 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 renewal period. 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)~~ (f)This article shall not apply to any dispenser who is renewing a license for the first time following ~~was issued~~ the issuance of an initial permanent license ~~for the first time within the preceding calendar year~~.

~~(f)~~ (g) 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 and reference cited: Section 3327.5, Business and Professions Code.

1399.141. Approval of Continuing Education Providers.

(a) In order to be approved by the bureau as a continuing education provider the following information shall be submitted with an application provided by the bureau:

(1) Description of course content of all courses to be offered. The course content for all courses, including ethics and business practices, shall be current practices related to the fitting of hearing aids for aiding or compensating for impaired human hearing or any of the subjects listed in subsection (a) of section 1399.140, and within the scope of practice for a dispenser as defined by the Code and generally shall be 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 3353 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 described in those basic subjects listed in subdivision (b) of Section 3353. Examples of courses that are considered outside the scope of acceptable course content include: personal finances and business matters; marketing and sales; increasing profitability; and office operations that are not for the benefit of the consumer.

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

(3) 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.

(4) 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, registration, or certificate in an area related to the subject matter of the course. The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by the Bureau or any other health care regulatory agency; (b) training, certification, 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.

(5) 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.

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

(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 bureau no later than December 31 of each calendar year~~ for a period of four (4) years, and shall provide such record to the bureau 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 bureau at its Sacramento office a~~t least 4–5 days before the date of the first course or program offering to be approved~~ allowing for sufficient time for review and prior approval as follows. The Bureau 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 Bureau 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 Bureau the denial of approval of any course. Such appeal shall be filed with the Bureau not more than 30 days after the date of notice of such denial.

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

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

(f) Each provider shall submit to the bureau 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 3327.5, Business and Professions Code. Reference: Section 3327.5, 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 bureau 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 bureau.

(b) F~~raudulently~~ In addition to any other sanction, fraudulently misrepresenting compliance with the continuing education requirements of Section 3327.5 of the code and this article shall constitute "obtaining a license by fraud or deceit" as those terms are used in Section 3401, subd. ~~(c)~~ (e), of the code.

Note: Authority cited: Sections 3327.5 and 3328, Business and Professions Code. Reference: Section 3327.5, 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 3327.5 of the code.

Note: Authority and reference cited: Section 3327.5, Business and Professions Code.

Pending Issues

Establishment Registration Proposal

The Hearing Aid Dispensers Bureau submitted a legislative proposal that would require hearing aid business establishments to be registered with the Bureau. The proposed language was approved by the Department but an author for the proposal was not secured.

The proposal was discussed at previous Committee meetings and a subcommittee was established to work on the details of the requirements. However, the subcommittee has not met on this matter.

This proposal was submitted as a part of a budget proposal but did not make it into the bill and died.

Song-Beverly Consumer Warranty Act Clarification Proposal

The Committee has discussed clarification of language included in the Song-Beverly Consumer Warranty Act. The Committee's discussions included clarification of "Completion of Fitting" and 30 days required under Song-Beverly. Committee discussions included adding a definition of completion of fitting to hearing aid law and exploring the possibility of writing a return and refund law for dispensers outside of Song-Beverly. It was recommended that the Bureau conduct an Informational Hearing on Song-Beverly in order to obtain comments and feedback from the public regarding this matter. The Bureau Chief intended on conducting an informational hearing at the PACT summit held in November 2008; however, was unable to do so. It was suggested that the Committee may want to brainstorm ideas to help clarify or change the law.

Proposed Amendment to Business & Professions (B&P) Code Section 3365.5 – Conditions for Referral

This issue was identified by the Bureau as a new issue for the new board to address. It has come to the attention of the Bureau, that B&P Code Section 3365.5 related to conditions for referral does not include all eight items that require referral as referenced in FDA Regulations. Two of the conditions are not reflected in the current law (B&P code Section 3365.5) related to the practice of hearing aid dispensing. Therefore, the Bureau would like to pursue an amendment to B&P Code Section 3365.5 to add the two additional conditions for referral.

Hearing Aid Dispensers Bureau

Proposed Language

Add Section 3350.5 and amend Sections 3364 and 3456 of Business and Professions Code Chapter 7.5, Article 3 as follows.

Establishment Registration Required

3350.5. It is unlawful for a business owner to operate a business that engages in the practice of fitting or selling of hearing aids without having first registered each business location with the bureau under the provisions of this chapter:

(1) "Establishment Registration" means the registration that is required for each office, store, or location established or maintained for the dispensing of hearing aids in this state.

(2) The bureau may issue an Establishment Registration Certificate to an applicant upon approval of an Application for Registration of an Establishment and receipt of the appropriate fees, and designation of an owner(s)/manager responsible for the operation of the establishment and compliance with the provisions of this chapter of the Business and Professions Code and any regulations adopted thereto. Each establishment shall employ California licensed hearing aid dispensers to be responsible for the dispensing of hearing aids.

(3) Any change in the designated manger must be reported to the Bureau in writing within 10 days.

(4) Closure of any establishment(s) must be reported to the Bureau in writing within 30 days. Submission of a new application is required if a change in ownership occurs.

(5) Registration is not transferable from location to location. New application is required when an office moves to a new location.

Registered Place of Business~~; Duplicate License~~

3364. (a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in such fitting or selling, routinely open for service to customers or clients. The address of the licensee's place of business shall be registered with the bureau as provided in Section 3362.

~~(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state he or she shall apply for and procure a duplicate license for each branch office maintained. Such application shall state the name of the person and the location of the place or places of business for which such duplicate license is desired.~~

~~(c)~~ (b) A hearing aid dispenser may~~, without obtaining a duplicate license for a branch office,~~ engage on a temporary basis in the fitting or selling of hearing aids at ~~the primary or branch location of~~ another licensee's business or at a location or facility which he or she may use on a temporary basis, provided, that, such hearing aid dispenser notifies the bureau in advance in writing of the dates and addresses of such businesses, locations or facilities at which he or she will engage in the fitting or selling of hearing aids.

(Amended by Stats. 2000, Ch. 277; effective January 1, 2001)

Fees

3456. The amount of fees and penalties prescribed by this chapter shall be those set forth in this section unless a lower fee is fixed by the bureau:

(a) The fee for applicants applying for the first time for a license is seventy-five dollars ($75) which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars ($50).

(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the bureau, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.

(c) The initial temporary license fee is one hundred dollars ($100). The fee for renewal of a temporary license is one hundred dollars ($100) for each renewal.

(d) The initial permanent license fee is two hundred eighty dollars ($280). The fee for renewal of a permanent license is not more than two hundred eighty dollars ($280) for each renewal.

~~(e) The initial branch office license fee is twenty-five dollars ($25). The fee for renewal of a branch office license is twenty-five dollars ($25) for each renewal.~~

~~(f)~~(e) The delinquency fee is twenty-five dollars ($25).

~~(g)~~(f) The fee for issuance of a replacement license upon loss of an original license or upon change of name authorized by law of a person holding a license under this chapter is twenty-five dollars ($25).

~~(h)~~(g) The continuing education course approval application fee is fifty dollars ($50). ~~The fee for a continuing education course transcript is ten dollars ($10).~~

~~(i)~~(h) The fee for official certification of licensure is fifteen dollars ($15). ~~The fee for a license confirmation letter is ten dollars ($10).~~

(i) The fee for an initial establishment registration is fifty dollars ($50). The fee for renewal of an establishment registration is fifty dollars ($50).

(j) The fee for issuance of a replacement license upon loss of an original certificate of registration is fifty dollars ($50).

Hearing Aid Return & Refund Policies

The Hearing Aid Dispensers Bureau is the licensing agency that licenses and regulates hearing aid dispensers in California. The Hearing Aid Dispensers Examining Committee now known as the Hearing Aid Dispensers Bureau was created in 1971 as a result of legislation passed in 1970.

The Bureau's mission is to protect hearing-impaired consumers from fraudulent or incompetent fitting and selling of hearing aids by, among other things, ensuring that licensees are knowledgeable in the technological advancements of the industry; the preparation, administration, and grading of an examination that is designed to evaluate competence of all professionals who fit and sell hearing aids; and by enforcing the Laws & Regulations Related to the Practice of Hearing Aid Dispensing.

Issue

The law on hearing aid returns and refunds as it relates to the Song-Beverly Consumer Warranty Act and licensed dispensers has not been clearly defined. As the law has been applied over the years, there have been multiple interpretations:

- that the 30 days would start again after each adjustment/replacement
- that the dispenser, when providing a refund under the Song-Beverly Consumer Warranty Act, could retain a nominal fee for products such as ear molds
- that dispensers must provide a complete refund of the total amount paid and cannot retain any amount when providing a refund

The goal is to balance both sides so that the law is fairly applied to both licensees and consumers.

Because hearing aid dispensers are not required under the law to provide receipts (after the initial purchase) for adjustments, replacements, or repairs, consumers do not receive documentation when hearing aids are returned for adjustments, replacements, etc. Therefore, it is up to the consumer to maintain records that include dates of all visits and descriptions of services provided which can be a difficult task for the elderly population serviced by hearing aid dispensers. In addition, there is still the problem of the consumer's word against the dispenser's. Further consumer protection may be realized if hearing aid dispensers were required to provide additional receipts for adjustments, replacements, and repairs.

Additionally, with the tolling of the 30-day warranty period, the time period to return a hearing aid for a refund can go on for an extensive period of time, possibly beyond the timeframe allowed by hearing aid manufacturers for dispensers to return the devices for credit. This places a financial hardship on hearing aid businesses as they, under the Song-Beverly Consumer Warranty Act, must provide a complete refund of the total amount paid and are unable to re-coup the costs incurred for the hearing aids (that are specific to each consumer) and all services and products provided. Even when a refund is provided within the 30-day period by the dispenser, the dispenser may not retain any portion of the total amount paid by claiming that part of the payment was for fitting the device or other ancillary service or for one or more of the component parts that the seller refuses to take back.

Therefore, the dispenser cannot retain any amount from the refund for services or component parts provided which places a financial burden on the dispensing business when they are unable to retain a portion of the refund for products and professional services provided.

The uncertainty of the law creates problems for the Bureau in resolving disputes.
The Hearing Aid Dispensers Bureau receives many complaints from consumers related to refunds on hearing aids that have been requested but refused or not received. The Bureau has found that the complainants (mostly seniors) do not have records/documentation such as receipts, dates of service, or descriptions of services (adjustments, replacements, or repairs) provided. Therefore without documentation to substantiate the allegations, the Bureau, many times, is unable to resolve the complaint or take administrative action.
Current law:

- allows for the return of an assistive device within 30 days of actual receipt or completion of fitting, whichever occurs later if the device is not specifically fit for the particular needs of the buyer,
- allows the seller the option to adjust or replace the device or provide a complete refund of the total amount paid; however, if the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid and shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and promptly cancel or cause to be cancelled all contracts,
- allows for tolling of the 30 days which allows the 30-day period to be stopped and restarted, and
- requires a licensee to deliver to the purchaser, upon the consummation of a sale of a hearing aid, a written receipt but does not require additional receipts for adjustments, replacements, or repairs.

Without clarification of ambiguous terminology within the Song-Beverly Consumer Warranty Act and because many times documentation/information from the complainant and licensee are not in agreement, it is difficult for Bureau staff to make a definitive determination as to whether the complainant is due a refund under the law and whether a violation of law has occurred. Clarification of the Song-Beverly Consumer Warranty Act is also needed so that unfair business practices and financial hardships are not placed on hearing aid dispensing businesses.

Based on the above, the 30 days can go on indefinitely. What is the public policy against this interpretation:

- Unfair to Licensees
  - Intuitively unfair
  - Financial burden (dispenser may not be able to return the device to manufacturer for credit)
  - Unfair business practices compared to consumer services in other industries and states
  - No certainty in sales of products and business planning/practices
  - Allows consumers the opportunity to take advantage of dispensers

If the 30 days is 30 days, what is the public policy against this interpretation:

- Could this reduce the quality assurance of hearing aid dispensers or allow dispensers to be unethical?
- Does the consumer have enough time to evaluate the product to their specific need?

In light of the above, the Bureau is pursuing information from all interested parties so that the Bureau can consider possible solutions to this issue which may include clarification of ambiguous Song-Beverly language, proposal of a new and stronger statute that would define refunds on hearing aids which would allow for expeditious resolution of complaints, greater consumer protection from licensees that may be subverting the law, and stronger enforcement of the law and allow for fair business practices for hearing aid dispensers.

Background

Approximately 40-50% of complaints received by the Bureau each year are related to refunds on hearing aids**.** It has been the Bureau and Complaint Resolution staff's experience when reviewing, investigating, and obtaining documentation to substantiate complaints related to refunds requested and refused or not received, that many complainants (mainly seniors) do not have records/documentation related to adjustments, replacements, or repairs of their hearing aids. If the allegations cannot be substantiated, the Bureau is unable to take administrative action, because there is insufficient evidence to confirm a violation of the law. Therefore, the complainant must then pursue resolution through Small Claims Court or a private legal action.

The Bureau is also aware that the Song-Beverly language as currently interpreted places unfair business practices on hearing aid dispensing businesses and can cause financial hardship on the businesses.

Comparative Laws

The Bureau of Electronic and Appliance Repair (BEAR) and the Bureau of Home Furnishings & Thermal Insulation (BHFTI) under the California Department of Consumer Affairs regulates the repair or installation of electronics, appliances, and performance of service contracts and health and safety standards in the bedding, furniture, and thermal insulation industries. The Song-Beverly Consumer Warranty Act also applies to products regulated by BEAR and BHFTI. The Song-Beverly Consumer Warranty Act requires every manufacturer, distributor, or retailer making express warranties with respect to consumer goods to inform the buyer of their rights to have the product serviced or repaired during the warranty period. The warranty period will be extended for the number of whole days that the product has been out of the buyer's hands. If a defect exists within the warranty period, the warranty will not expire until the defect has been fixed. The warranty period will also be extended if the warranty repairs have not been performed due to delays caused by circumstances beyond the control of the buyer, or if the warranty repairs did not remedy the defect and the buyer notifies the manufacturer or seller of the failure of the repairs within 60 days after they were completed. If, after a reasonable number of attempts, the defect has not been fixed, the buyer may return this product for a replacement or a refund subject, in either case, to deduction of a reasonable charge for usage.

BEAR/BHFTI's interpretation of the above law is that a non-fixable product may be returned within 90 days and in some instances beyond 90 days for a refund or replacement at the discretion of the manufacturer. The time is tolled during the time the product is out of the hands of the buyer. As determined by the Bureau, the number of reasonable attempts to fix any defect is three.

<u>Laws Related to Refunds/Returns of Hearing Aids in Other States</u>

Florida – Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee; criminal penalty….

1) The seller must provide the buyer with written notice of a 30-day trial period and money-back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason as defined by the board within 30 days after receiving the hearing aid, by returning the hearing aid or mailing written notice of cancellation to the seller. If the hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day trial period is suspended 1 day for each 24-hour period that the hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims the repaired, remade, or adjusted hearing aid or on the fourth day after notification of availability.
2) The licensee may retain charges for ear molds, services provided, and a cancellation fee as prescribed by the board. If a rule regarding the above is not set forth by the board, a licensee may not charge a cancellation fee which exceeds 5 percent of the total amount available for refund, shall be provided in writing to the

purchaser prior to signing the contract.

3) The seller must provide the refund within 30 days.

Texas – Conditions of Sale

1) The buyer must be informed of a 30-day trial period by written contract including all charges associated with such trial period.
2) The buyer shall be entitled to a refund of the purchase price less the agreed-upon amount upon return of the hearing aid(s) in good condition within the 30-day trial period ending 30 days from the date of delivery. Should the order be cancelled prior to delivery, the licensee may retain the agreed-upon charges and fees. Refund is due by the 30th day after the date the buyer cancels or returns the hearing aid(s).
3) If the hearing aid(s) must be repaired, remade, or adjusted during the 30-day trial period, the 30-day trial period is suspended for one day for each 24-hour period that the aid(s) are not in the buyer's possession. The 30-day trial period resumes on the day the buyer reclaims the repaired, remade, or adjusted aid(s) or within five working days of notification.

Oregon – Right to rescind hearing aid purchase; grounds; notice of rescission; time limit; refund.

1) In addition to any other rights and remedies the purchaser may have, the purchaser shall have the right to rescind the transaction if:
   (a) the purchaser consults with a physician or audiologist subsequent to purchasing the hearing aid, and the licensed physician advises the purchaser against purchasing or using a hearing aid and in writing specifies the medical reason;
   (b) the seller fails to adhere to the practice standards provided in the law, or fails to provide the statement required in the law;
   (c) the fitting of the hearing aid failed to meet current industry standards; or
   (d) the licensee fails to meet any standard of conduct prescribed in the law or rules regulating fitting and dispensing of hearing aids and this failure affects in any way the transaction which the purchaser seeks to rescind.
2) The purchaser of a hearing aid shall have the right to rescind the transaction, for other than the seller's breach, if the purchaser returns the product in good condition less normal wear and tear and gives written notice of the intent to rescind the transaction by written notice of the intent to rescind sent by certified mail, return receipt, to the licensee's regular place of business or returning the product with written notice of intent to rescind to an authorized representative of the company from which it was purchased.
3) The notice described above shall state that the transaction is cancelled pursuant to this section and must be postmarked within 30 days of the original delivery or within specified time periods if the 30-day period has been extended in writing by both parties. The consumer's rescission rights can only be extended through a written agreement by both parties.

4) If conditions stated above have been met, the seller shall issue a refund within 10 days after the cancellation. The licensee may retain a portion of the purchase price as specified by rule of the Oregon Health Licensing Agency when the sale is rescinded during the 30-day rescission period. The seller shall return all goods traded in and the purchaser shall incur no additional liability for the cancellation.

Illinois – Thirty-Business-Day Return Privilege

1) All hearing instruments offered for sale must be accompanied by a 30-business-day return privilege.
    a) At the time of delivery, the licensee must furnish to the buyer a fully completed receipt or copy of the contract that contains a statement informing the buyer that he/she may return the hearing instrument for a refund within 30 business days and the day by which the refund period extends in bold 10 point type.
    b) If a nonrefundable fee will be withheld from the buyer in the event of return, the dollar amount must be clearly stated in 10-point bold type on the face of the receipt or contract.
2) If during the 30-business-day refund period the hearing instrument and/or accessories are returned for adjustment or repair, the refund period will be extended, affording the buyer the remainder of the refund period. The extension shall be provided to the buyer in writing.

Current Laws/Regulations

California Civil Code Section 1793.02 – Song-Beverly Consumer Warranty Act

(a) All new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: **"This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws."** In lieu of the words "30 days" the retail seller may specify any longer period.

(b) The language prescribed in subdivision (a) shall appear on the first page of the warranty in at least 10-point bold type. The warranty shall be delivered to the buyer at the time of the sale of the device.

(c) If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of

the transaction and shall promptly cancel or cause to be cancelled all contracts, instruments, and security agreements executed by the buyer in connection with the sale. When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.

California Civil Code Section 1795.6

Section 1795.6 allows for tolling of the 30 days which allows the 30-day period to be stopped and restarted.

Business & Professions (B&P) Code Section 3365

Section 3365 related to written receipts requires a licensee to deliver, upon the consummation of a sale of a hearing aid, to the purchaser a written receipt that contains among other things the following:

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

Business & Professions (B&P) Code Section 3401

Section 3401 authorizes the Bureau to take disciplinary action against a licensee for such causes as: gross incompetence, gross negligence, fraud or misrepresentation in the fitting or selling of a hearing aid, etc.

California Code of Regulations Section 1399.136

Provides the fine amounts to be levied against dispensers by the chief for violation of specific sections of the laws or regulations, which includes Civil Code Section 1793.02.

Industry Standards/Issues

In order to obtain credit for returned hearing aids, hearing aid dispensers must return any returned hearing aids to the hearing aid manufacturer within 60-90 days but extensions are possible beyond the return for credit time period.

Possible Discussion Points

What changes would you recommend that would make refund requirements clear and fair to both consumers and dispensers?

Can we define “completion of fitting”?

Can we define “specific needs”?

Can we define “an adjustment”?

Should consumers be provided receipts for adjustments, replacements, etc.?

Laws and Regulations Relating to the Practice of Hearing Aid Dispensing

Business and Professions Code Chapter 7.5, Article 3, Section 3365.5

Conditions for Referral

3365.5. Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his best interests would be served if he would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

(1) Visible congenital or traumatic deformity of the ear.
(2) History of, or active drainage from the ear within the previous 90 days.
(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
(4) Acute or chronic dizziness.
(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
(6) Significant air-bone gap (when generally acceptable standards have been established).

No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 3366. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 3366. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

(Amended by Stats. 1979, Ch. 970.)

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
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AUDIOLOGY PRACTICE COMMITTEE MEETING MINUTES

November 4, 2009

Long Beach Memorial Medical Center
2801 Atlantic Avenue
"Conference Room E"
Long Beach, CA
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Committee Members Present
Alison Grimes, Au.D.
Naomi Smith, Au.D.
Robert Hanyak, Au.D.

Staff Present
Annemarie Del Mugnaio, Executive Officer
Cynthia Alameda, Staff Analyst
George Ritter, Legal Counsel

Board Members Present
Jennifer Hancock, M.A.
Paul Carol Murphy, M.A.
Monty Martin, M.A.
Lisa O'Connor, M.A.

Board Members Absent
Donald, M.D.

Guests Present
Tim Shannon, Hearing Health Care Providers California
Steven Paulson, California State University Los Angeles
Dennis Van Vliet, California Academy of Audiology
Sherry Foldvary. California State University Northridge
Kathleen Venne, California Speech-Language-Hearing Association
Monica Porter, Santa Anna Community College
Jane Moir, Los Angeles County Office of Education
Deena Sharp, Los Angeles County Office of Education
Susan Kidwell, San Joaquin Delta Community College
Robert Powell, California Speech-Language-Hearing Association
Rosemary Scott, Pasadena City College
Donna Perrelet, California Speech-Language-Hearing Association
Tricia Hunter, Hearing Health Care Providers California
Cindy Peffers, Hearing Health Care Providers California
Linda Pippert, California Speech-Language-Hearing Association

I. Call to Order

Chairperson Grimes called the meeting to order at 1:50 p.m.

II. Introductions

Those in attendance introduced themselves.

III. Discussion Regarding Implementation of Legislation Passed in 2009

A. SB 821- Omnibus Legislation – Senator Negrete McLeod- Entry-Level Licensing Standards for Audiologists (Doctorate Education) & Amendments to Audiology Aide Supervision Standards- Discuss Regulatory Amendments for Audiology Aides

Ms. Del Mugnaio reported that the omnibus bill, Senate Bill 821, was passed and was signed by the Governor on October 11, 2009. She stated that SB 821 contained several clean-up and technical provisions for many healing arts boards and included provisions to raise the entry-level educational standard for audiology to the doctorate training level, in addition to making conforming changes to the required professional experience provisions regarding audiology doctoral students completing the requisite 4th year externship in another state. Ms. Del Mugnaio reported that SB 821 also includes language to delete the "direct" supervision requirement for audiology aides, providing the Board the flexibility to establish appropriate supervision parameters for audiology aides by regulation. Ms. Del Mugnaio explained that the Board must amend existing audiology licensing forms to include the new academic degree requirements and such changes will be posted on the Board's website by January 1, 2010.

Ms. Del Mugnaio indicated that the Audiology Practice Committee must begin crafting audiology aide regulations defining appropriate supervision standards for aides working with specific clients or under certain conditions, as the overriding statutory authority for "general supervision" is now much broader as a result of SB 821. Ms. Del Mugnaio stated that Chairperson Grimes provided a sampling of regulatory provisions as adopted by other states defining both supervision standards and scopes of responsibility for audiology support personnel and referenced the documentation in the meeting packets.

Chairperson Grimes requested that each member of the Committee review the regulation language of the other states and email to her suggestions for amending California's regulations regarding audiology aides. She explained that the American Academy of Audiology also has pertinent literature on regulating audiology support personnel and stated that the Committee should focus on supervision parameters for particular clients and settings. Chairperson Grimes stated that she would collect the suggested amendments of the Committee and present such information at the next scheduled Audiology Committee meeting to be held in February 2010.

B. AB 1535 – Assembly Member Jones- Authorization for Audiologists to Dispense Hearing Aids/ Merger of the Speech-Language Pathology & Audiology Board and the Hearing Aid Dispensers Bureau- Discuss Necessary Regulation Changes for Dispensing Audiologists Pertaining to License Renewal Requirements and Continuing Professional Development

Ms. Del Mugnaio reported that Assembly Bill 1535 passed and was signed by the Governor. She indicated that the bill merged the Speech-Language Pathology and Audiology Board with the Hearing Aid Dispensers Bureau and created the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. Ms. Del Mugnaio reported that the bill also created an avenue for audiologists to dispense hearing aids under the authority of the audiology license provided the appropriate examination has been satisfied and maintenance of continuing education for both audiology and hearing aid dispensing is documented. She reviewed the provisions of the bill as follows:

- The authorization for audiologists to dispense hearing aids under the audiology license provided the audiologist has taken and passed both the written and practical examinations in hearing aid dispensing.

- Dispensing audiologists will be issued a "Certificate of Authorization to Dispense," either upon expiration of the Hearing Aid Dispensers license or after passing the requisite practical and written examination for new applicants.
- Subjects dispensing audiologists to specific hearing aid dispensing provisions, such as catalog/direct mail sales, specific product receipt requirements, record retention requirements, and referrals to physicians for specified medical conditions.
- The composition of the newly merged board shall be comprised of two 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 that shall be occupied by a licensed physician and surgeon, board-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.
- Creates a Hearing Aid Dispensers Committee under the full Board which shall be comprised of the two audiology and two hearing aid dispenser board members, one public member of the Board, and the otolaryngologist.
- The bill changes the fee for a dispensing audiologist to a $280 renewal fee.

The Committee inquired about the legal interpretation of the provisions of AB 1535 related to the requirement for audiologists to take and pass both the written and the practical hearing aid dispensers' examination.

Ms. Del Mugnaio explained that, after the Executive leadership of the Hearing Health Care Providers sought clarification from the Chief Consultant of the Business, Professions, and Economic Development Committee, Bill Gage, regarding the hearing aid dispensers' examination prerequisite as applied to dispensing audiologists, it was clear that AB 1535 did not exempt or eliminate audiologists from having to take both the written and practical portions of the examination.

Chairperson Grimes inquired about the timing and findings of the most recent validation study or occupational analysis for both the written and practical hearing aid dispensers' examination program.

Ms. Del Mugnaio indicated that the most recent validation study conducted for the hearing aid dispensers' written and practical examination was in 2007 and that the report findings supported the validity of the examinations.

Chairperson Grimes requested that Nancy Linn from the Office of Professional Examination Services, Department of Consumer Affairs, be invited to attend the next scheduled Board meeting to answer procedural questions regarding examination development and validation.

Ms. Del Mugnaio explained that the funds collected from all dispensing licensees (i.e., both hearing aid dispensers and dispensing audiologists) would be deposited into a separate subaccount of the merged Board fund in order to track the revenue generated by dispensing licenses. She stated that the provisions of AB 1535 mandate a review of the revenue and expenditures after one year to assess whether the current application and renewal fees are appropriate to support the regulation of hearing aid dispensers and dispensing audiologists.

Ms. Del Mugnaio referenced a legal opinion included in the meeting packets, as prepared by George Ritter, regarding employment limitation on audiologists employing hearing aid dispensers or vice versa and whether the new provisions alter the existing limitations. She informed the Committee that Mr. Ritter concluded that the new provisions do not alter the existing limitations and that in order for there to be an

employment arrangement between an audiologist and a hearing aid dispenser the audiologist must have the legal authority to dispense hearing aids to avoid a quid pro quo situation.

The Committee inquired about implementation issues in terms of the elimination of the actual hearing aid dispensers' license and whether maintaining the continuing education would be tied to the renewal of the audiology license.

Ms. Del Mugnaio explained that continuing education for audiologists would be tied to the audiology renewal cycle, but that until new regulatory language is adopted, audiologists must complete both the hearing aid dispenser continuing education (CE) requirements annually and the audiology continuing professional development (CPD) requirements for the biennial renewal of the license. She stated that in the meeting packets she prepared a proposed regulatory amendment that would change the renewal requirements for dispensing audiologists to require twelve (12) hours of CPD in audiology annually, with at least six (6) hours being in hearing aid dispenser-related coursework.

Mr. Hanyak inquired whether the hearing aid dispenser coursework must be preapproved by the Board, as is currently required under the hearing aid dispensers' regulation provisions.

Ms. Del Mugnaio affirmed that, at this point, the hearing aid courses must be preapproved, but stated that the Board may move to eliminate the course approval process for hearing aid dispensers' continuing education (CE) and move toward a CE provider approval process as is currently employed for speech-language pathology and audiology CPD. She indicated that some hearing aid dispenser professionals had expressed an interest in eliminating the individual course approval process.

Tricia Hunter inquired whether the CE mandate for hearing aid dispensers was a statutory or regulatory provision.

Ms. Del Mugnaio responded and explained that the general mandate for completion of CE for both hearing aid dispensers and audiologists is in statute, but that the specific number of hours required for license renewal and the CE program components are adopted by regulation.

Cindy Peffers inquired about the new proposed CE language and whether the requisite hearing aid dispenser hours would be tied to the certificate of authorization to dispense.

Ms. Del Mugnaio indicated that the certificate is not renewable; however, there is a mandate in AB 1535 that dispensing audiologists meet the regulatory provisions in the hearing aid dispensers Practice Act and, as such, the CE required for dispensing audiologists would be required upon renewal of the audiology license.

A general discussion regarding the practice authority of the certificate of authorization to dispense ensued.

Mr. Ritter stated that the distinction of whether the certificate is consistent with "a license" or is an authorization is really a theoretical distinction when determining the requirements for CE, as it is clear that audiologists must complete hearing aid dispensing CE in order to hold the dispensing audiology license.

Chairperson Grimes requested that Ms. Del Mugnaio draft "Frequently Asked Questions" to post on the Board's website explaining the licensing and renewal changes for dispensing audiologists as a result of AB 1535.

Ms. Del Mugnaio reviewed the proposed continuing professional development language with the Committee.

M/S/C: Smith/Hanyak

The Committee voted to recommend to the full Board to adopt the regulatory amendments to California Code of Regulations Section 1399.160.3(e) regarding continuing professional development requirements for dispensing audiologists to read, "A licensed audiologist authorized to dispense hearing aids as provided in Section 2539.1 of the code shall accrue at least twelve (12) hours of continuing professional development as defined in Section 1399.160.4 annually….and at least, but not greater than, fifty percent (50%) of the continuing professional development required shall be obtained from courses related to hearing aid dispensing."

IV. Consider Regulatory Proposal Regarding Audiologists' Role in Cochlear Implant Fitting and Mapping (California Code of Regulations Section 1399.150.2- Definitions)

Chairperson Grimes referenced the proposed regulation amendment included in the meeting packets regarding the audiologist's role in cochlear implant fitting and mapping and stated that the Committee and full Board discussed the need for the regulation amendment at length at the August 20, 2009 meetings.

The Committee reviewed the language.

M/S/C: Hanyak/S mith

The Committee voted to recommend to the full Board to adopt the regulatory amendments to California Code of Regulations Section 1399.150.2 regarding the definition of the practice of audiology to include services for cochlear implantation, fitting and mapping.

V. Discussion of Correspondence with Department of Developmental Services Regarding the Need for Further Services Provided by Regional Centers for Deaf/Hard of Hearing Children

Chairperson Grimes referenced a letter dated September 5, 2009, included in the meeting packets, directed to the Department of Developmental Services from the Board regarding the Board's concerns for the provision of services offered by the Regional Centers to infants and toddlers who are deaf or hard of hearing. She stated that the letter addresses the lack of appropriate providers and services afforded by the Regional Centers to infants and toddlers with profound hearing loss.

Ms. Del Mugnaio stated that she had not to date received a response from the Department of Developmental Services.

Chairperson Grimes stated that she recalls some email contact by the Department of Developmental Services regarding the letter, but would follow-up on the matter and report back to the Committee.

Chairperson Grimes adjourned the meeting at 3:15 p.m.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
2005 Evergreen Street, Suite 2100, SACRAMENTO, CA 95815
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SPEECH-LANGUAGE PATHOLOGY PRACTICE COMMITTEE MEETING MINUTES

November 4, 2009
Long Beach Memorial Medical Center
2801 Atlantic Avenue
"Conference Room E"
Long Beach, CA
(562) 933-2000

Committee Members Present
Lisa O'Connor, M.A., Chairperson
Carol Murphy, M.A. Cynthia
Jennifer Hancock, M.A.

Staff Present
Annemarie Del Mugnaio, Executive Officer
Alameda, Staff Analyst
George Ritter, Legal Counsel

Board Members Present
Alison Grimes, Au.D. Paul
Naomi Smith, Au.D.
Robert Hanyak, Au.D.
Monty Martin, M.A.

Board Members Absent
Donald, M.D.

Guests Present
Tim Shannon, Hearing Health Care Providers California
Steven Paulson, California State University Los Angeles
Dennis Van Vliet, California Academy of Audiology
Sherry Foldvary, California State University Northridge
Kathleen Venne, California Speech-Language-Hearing Association
Monica Porter, Santa Anna Community College
Jane Moir, Los Angeles County Office of Education
Deena Sharp, Los Angeles County Office of Education
Susan Kidwell, San Joaquin Delta Community College
Robert Powell, California Speech-Language-Hearing Association
Rosemary Scott, Pasadena City College
Donna Perrelet, California Speech-Language-Hearing Association
Tricia Hunter, Hearing Health Care Providers California
Cindy Peffers, Hearing Health Care Providers California
Linda Pippert, California Speech-Language-Hearing Association

I. Call to Order

Chairperson O'Connor called the meeting to order at 3:25 p.m.

II. Introductions

Those in attendance introduced themselves.

III. Discussion of Speech-Language Pathology Assistant Training in California

A. **Update on New Training Programs**
B. **On-line Speech-Language Pathology Assistant Training**
C. **Clinical/Fieldwork Opportunities for Bachelor Degree Holders and Relevant Ethical/Professional Issues**

Chairperson O'Connor opened the discussion regarding the issues surrounding training speech-language pathology assistants (SLPAs), both at the community college level and at the undergraduate level, in terms of offering coursework and clinical training to bachelor degree holders who are seeking registration as an SLPA in the state.

Chairperson O'Connor stated that all institutions involved or interested in training students to become SLPAs were invited to attend the Committee meeting to discuss the current challenges and opportunities in providing such training to California students and to students who wish to transfer to a California institution to complete a course of study in SLPA.

The participants outlined the following challenges facing both California institutions where SLPAs are trained and the impact SLPAs have on the profession of speech-language pathology:

- The vast number of bachelor students seeking registration as SLPAs may be saturating the field of speech-language pathology and may be displacing speech-language pathologists in certain employment settings where the paraprofessionals may be used as independent practitioners.

- There is a concern that there are not enough supervisors willing and/or appropriately trained to oversee the services of the growing number of registered SLPAs.

- There may be limited employment opportunities for registered SLPAs due to insurance reimbursement restrictions and the overall down-turn of the economy.

- There are limited field-work sites to provide clinical training to SLPA students. Community college programs and undergraduate programs are competing for field-work sites.

- There are ethical considerations for training programs to accept transfer students into the SLPA courses, as program personnel have no experience or knowledge of the student academic potential or interpersonal character.

- On-line SLPA programs operating in other states are seeking to place students in field-work placements in California by independently vetting the site field work contracts. Such on-line programs have not been reviewed and approved by the Board nor has there been a review of the coursework by an SLPA training program expert to determine whether the program offers an equivalent course of study to that offered by a California approved SLPA program.

- Employers of SLPAs are making hiring decisions based on degree merit, thus creating competition for jobs between associate level SLPAs and those who hold a bachelor's degree.

- The coursework offered in undergraduate speech-language pathology programs differs from that afforded to students in community college SLPA programs in that SLPA training programs

instruct students on how to be competent support-level personnel, whereas undergraduate programs are designed to teach students about independent practice responsibility.

Information was shared regarding the training programs, both undergraduate and at the community college SLPA campuses that currently offer clinical training to bachelor degree holders. These programs are as follows: San Jose State, San Joaquin Delta, San Francisco State, University of the Pacific, University of Redlands, California State Los Angeles, and Long Beach State.

Ms. Del Mugnaio closed and thanked those in attendance. She stated that the Board will examine the issues above to determine if any regulation changes or educational efforts should be considered.

Chairperson O'Connor adjourned the meeting at 4:58 p.m.

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FULL BOARD MEETING MINUTES
November 5, 2009
Long Beach Memorial Medical Center
2801 Atlantic Avenue
"Conference Room E"
Long Beach, CA
(562) 933-2000

Board Members Present
Lisa O'Connor, M.A., Chairperson
Alison Grimes, Au.D. C
Naomi Smith, Au.D. George
Robert Hanyak, Au.D.
Carol Murphy, M.A.
Jennifer Hancock, M.A.
Monty Martin, M.A. Paul

Staff Present
Annemarie Del Mugnaio, Executive Officer
ynthia Alameda, Staff Analyst
Ritter, Staff Counsel

Board Members Absent
Donald, M.D.

Guests Present
Dennis Van Vliet, California Academy of Audiology
Tricia Hunter, Hearing Health Care Providers California
Cindy Peffers, Hearing Health Care Providers California
Douglas Lee, Deputy Attorney General, Office of the Attorney General

I. Call to Order

Chairperson O'Connor called the meeting to order at 9:20 a.m.

II. Introductions

Those in attendance introduced themselves.

III. Approval of Meeting Minutes for August 20, 2009 Audiology Practice Committee Meeting, Speech-Language Pathology Practice Committee Meeting, & Full Board Meeting Minutes

The Board discussed minor gra mmatical ed its to the practice comm ittee and full b oard m eeting minutes.

M/S/C: Grimes/Ha ncock

The Board voted to approve the meeting minutes as amended.

IV. Closed Session (pursuant to Government Code Subsections (c)(3)- Proposed Amended Stipulation In the Matter of the Accusation Against Guadalupe Garcia, AU 685

The Board convened into closed session to discuss the proposed stipulation in the matter of the Accusation against Guadalupe Garcia, AU 685.

The Board reconvened into open session.

V. Status of Audit Response from San Joaquin Delta Speech-Language Pathology Assistant Program

Ms. Susan Kidwell, Speech-Language Pathology Assistant Program Director of the San Joaquin Delta Program, addressed the Board and referenced the Site Review Findings response she prepared for the Board dated October 19, 2009. She stated that the response was directed to address the outstanding deficiencies noted in the Site Review Findings Report of the Board dated April 16, 2009, which outlined the areas of concern: dedicated budget resources for the SLPA program and the proposed teach-out plan for program completion for the students attending classes at the Santa Rosa Junior College satellite campus. Ms. Kidwell explained that she also covered information regarding field-work site agency agreements and student placements.

The Board reviewed the information as submitted by Ms. Kidwell and determined that further detailed information must be provided to the Board in order for the Board to reach a determination on the status of Board-approval of the program. The Board requested that Ms. Kidwell submit the following:

- Provide an explanation of how the allocated resources for general supplies are sufficient to fund the necessary teaching materials and include a letter from the Dean confirming that adequate administrative support and resources will be directed to the program in order to preserve quality training for all enrolled students.

- Provide a status report regarding the implemented teach-out of students currently enrolled at the Santa Rosa Junior College location and provide further information on the availability and/or need for distance learning beyond the identified 2011 date.

- Provide clarifying information regarding the manner in which San Joaquin Delta vets the clinical field-work sites for student placements, including information on the process for how sites are selected and how student placements are arranged with contracting field-work sites.

M/S/C: Murphy/Grimes

The Board voted to defer the decision regarding the approval status of the San Joaquin Delta Speech-Language Pathology Assistant Program until further information is submitted by the college relative to the process for vetting its field work sites and more detailed information on budget allocation for administration of the program.

VI. Executive Officer's Report (Annemarie Del Mugnaio)

A. Budget Update

Ms. Del Mugnaio referenced the budget expenditure and projection report as of September 30, 2009, as included in the meeting packets. She noted that there is a 15% projected target reduction in Operating Expenses and Equipment as ordered by the Governor. She explained that the target reduction in budget expenses of $33, 594 will reduce the Board's overall spending appropriation and

will necessitate limiting expenses in areas such as travel, printing, postage, or other line items where savings may be available. Ms. Del Mugnaio explained that one area within which the Board may save money is in meeting room expenses by locating no-charge meeting room facilities. She indicated that several individuals have notified her about no-cost meeting facilities and she will explore such options for all meetings held in 2010. Ms. Del Mugnaio reported that the Board did receive an augmentation of $22,000 for its Attorney General budget for enforcement costs as a result of a budget change proposal approved last year. Ms. Del Mugnaio also reported that the new enforcement reform efforts and related resource needs will impact both the Speech-Language Pathology and Audiology Board budget and the Hearing Aid Dispensing subaccount. She stated that she is currently working with the Department to determine the funding needs and resource allocation, but indicated that the enforcement reform expenses may result in licensing fee increases for certain professions. Ms. Del Mugnaio stated that she would be providing an overview of the enforcement reform efforts later in the meeting discussions.

B. **Status of Proposed Regulations**

1. **Review Final Statement of Reasons and Language for Clean-up Package – Continuing Professional Development Amendments Related to Supervision Requirements and Board Approved Institution Regulations (California Code of Regulations Sections -1399.152 (e), 1399.153.3 & 1399.160.4)**

Ms. Del Mugnaio reported that, at the August 20, 2009 meeting, the Board voted to make changes to the proposed regulation text originally noticed to the public on June 12, 2009, and delegated to her the task of noticing the 15-day modified text to the public. She stated that the modified language included increasing the number of self-study continuing professional development hours from a maximum of four (4) hours to a maximum of six (6) hours in order to align the self-study hours with the requisite six (6) hours of supervision training that must be obtained by those supervising Required Professional Experience temporary license holders. Ms. Del Mugnaio reported that the 15-day notice of modified text and the actual text was disseminated on September 9, 2009 to all interested parties who either commented on the originally proposed language or who requested notice of any modified regulation text, with a comment period of September 15, 2009 through September 30, 2009. She stated that no further comments were received by the Board during the 15-day public comment period. Ms. Del Mugnaio indicated that the Board had delegated her authority to adopt the Final Order of Adoption at the August 20, 2009 meeting provided that no comments in opposition were received by the Board during the 15-day public comment period and, as such, she prepared the Final Statement of Reason and Order of Adoption for the Board's reference. She stated that she is in the process of completing the final rulemaking file for submission to the Department for regulatory review and to the Department of Finance for review and approval of the fiscal impact statements.

2. **License Renewal Requirements- Retroactive Fingerprinting – (Adopt California Code of Regulations Section- 1399.157.3)**

Ms. Del Mugnaio explained that the Board will pursue the retroactive fingerprinting regulations once the Board receives the database match from the Department that will cross-reference the Board's active licensing population with the Department of Justice's database for fingerprint records. She indicated that the same regulatory effort will need to be pursued for the hearing aid dispensers and that she will file a combined regulatory proposal under the new merged Board after January 1, 2010.

C. **Update on Communication with the Department of Health Care Services Newborn Hearing Screening Program Regarding Audiology Provider Education and Enforcement**

Ms. Del Mugnaio stated that at the August 20, 2009 Audiology Practice Committee Chairperson Grimes raised concerns over the lack of a specialized center under the NHSP for the birth to two-year old population where electrophysiologic diagnostic services would be provided by highly-trained audiologists who have expertise in performing such diagnostics under sedation. Ms. Del Mugnaio stated that she would be sending an invitation to the NHSP consultants to attend the February Board meeting to discuss the opportunities for developing a new "Type D" Center, or Center of Excellence, where audiologists who are highly trained in pediatric hearing diagnosis would serve the birth to two-year population and provide electrophysiologic diagnosis under sedation.

Ms. Del Mugnaio also reported that she was contacted by the Department of Health Care Services regarding a federal grant opportunity, which provided funding to state licensing boards to assist states across the country with existing barriers to telemedicine. She stated that there are approximately 1.5 million dollars available to licensing boards that wish to partner together and address practice issues and legal restrictions surrounding telemedicine. Ms. Del Mugnaio stated that, while the opportunity is open to all health care practitioner groups, it appears to focus primarily on portability issues surrounding the practice of medicine and involved doctors and nurses. Ms. Del Mugnaio indicated that the proposal guidelines are extremely involved and would necessitate legislative approval for any California licensing board to participate. She stated that the deadline to submit a proposal for the grant funding is due November 18, 2009, and the Board would not have an opportunity to take advantage of the federal grant.

Chairperson O'Connor reported that she participated in a teleconference regarding the federal grant on behalf of the National Council of State Boards of Examiners in Speech-Language Pathology and Audiology (NCSB). She stated that the grant is a one-time offering of three separate grants for a period of two-years and each grant would be $500,000. She stated the outcome of the telemedicine pilot should result in a national telemedicine model. She reported that another grant proposal will be available in 2012, with a proposal deadline sometime in late 2011. Chairperson O'Connor indicated that she hopes the NCSB will be involved in the next grant offering, as there was not enough time or resources to submit a comprehensive proposal this November.

D. **Status Update on California Commission on Teacher Credentialing Special Education Credentialing – Communication Development Specialist- Proposed Regulations Title 5 California Code of Regulations Section 80048.6.**

Ms. Del Mugnaio referenced the Board's official comments, as included in the meeting packets, raising concerns with the proposed regulations adopting a new Special Education Credential for a Communication Development Specialist. She stated that, at the August 20, 2009 Board meeting, the Board decided to submit objections to the 15-day modified text of the regulations, specifically addressing the ambiguity of the new credential's scope of responsibility, training standards, and intended work environment. Ms. Del Mugnaio reported that to date she has not received any communication from the Commission regarding the opposition and has learned that to date the Commission has not filed the final rulemaking package to the Office of Administrative Law.

The Board discussed the impending issues with the adoption of the new Communication Development Specialist Credential in terms of adding more school-based personnel with overlapping responsibility with speech-language pathologists and other special education providers and the potential for significant confusion in deciphering each of the providers' roles in treating children with speech and language disorders.

Ms. Del Mugnaio stated that she would continue to track the status of the regulation filing.

E. **Examination Validation Study (Audiology)– Final Report**

Ms. Del Mugnaio referenced the final Audiology Validation Study Report included in the meeting packets and stated that the draft report was adopted by the Board at the August 20, 2009 meeting and that the final report is being presented in bound copy. She indicated that the demographic survey included in the report may be used by the Board to assess practice and workforce trends in audiology and any necessary regulatory amendments that should be considered.

F. **Update on Transition of the Hearing Aid Dispensers' Staff and Workload to the Board (Representative from the Department of Consumer Affairs will be Present to Address the Board)**

Ms. Del Mugnaio provided an administrative report regarding the transition of the staff and the workload of the hearing aid dispensers programs. She indicated that the staff will include Yvonne Crawford, who handles the hearing aid enforcement and regulatory programs, and Debbie Newcomer, who coordinates the hearing aid dispensers' examination program and assists in the licensing of hearing aid dispensers. Ms. Del Mugnaio indicated that Ms. Crawford and Ms. Newcomer will not move physically to the existing Board office until February or March 2010, as office reconfiguration must be done to accommodate the new staff. She stated that in the interim she will be traveling to both sites to manage both staff. She also announced that she is in the process of recruiting a new manager who will manage all staff in the newly merged board. Ms. Del Mugnaio also reported on the status of the following administrative projects relative to the merger:

- In the process of creating a merged website containing information for speech-language pathologists, audiologists, and hearing aid dispensers. As a temporary measure, a landing page will be created identifying the newly merged board with links to both existing independent sites.
- Staff is working with the Department to merge licensing databases and amend renewal notices.
- Beginning to examine all program policies and procedures in order to identify inefficiencies and develop strategies to streamline enforcement and licensing work flow relative to all three professions.

VII. **Update from Board Member Lisa O'Connor**
National Council of State Boards of Examiners in Speech-Language Pathology and Audiology – Conference 2009- New Orleans, LA, September 10-12, 2009

Chairperson O'Connor stated that the NCSB held its national conference in New Orleans where a keynote speaker, Nina Antoniotti, PhD, RN, presented information to the group on telehealth and how states might appropriately regulate cross-borders practice. She stated that Ms. Antoniotti's presentation was incredibly informative and indicated that she would provide

a summary of the presentation along with some of the other key topic summaries shared at the conference, including regulation of speech-language pathology and audiology support personnel.

VIII. Practice Committee Reports

A. Audiology Practice Committee Report and Recommendations for Proposed Regulatory Amendments Regarding Audiology Aides, Continuing Professional Development Provisions, & Cochlear Implant Fitting and Mapping

Vice Chairperson Grimes provided an overview of the matters discussed at the Audiology Practice Committee m eeting and outlin ed the topic s d iscussed an d the re commendations bef ore th e Board (included under the Audiology Practice Committee Meeting Minutes).

M/S/C: Hanyak/Murphy

The Board voted to accept the report and recommendations of the Audiology Practice Committee

B. Speech-Language Pathology Committee Report and Recommendations Regarding Speech-Language Pathology Assistant Training Reform

Chairperson O'Connor summarized the discussion from the Speech-Language Pathology Practice Committee Meeting (included under the Speech-Language Pathology Practice Committee Meeting Minutes).

M/S/C: Hanyak/Ha ncock

The Board approved the report of the Speech-Language Pathology Practice Committee.

IX. Status of Proposed Legislation

Ms. Del Mugnaio referenced a legislative status report she prepared for the Board, which is included in the Board meeting packets. The following information was contained in the documented legislative status report:

A. Senate Bill 389 (Negrete McLeod) Fingerprinting Authority

Status: The bill failed to pass out of the Assembly Public Protection Committee:

As amended on June 1, 2009, this bill would make fingerprinting requirements applicable to the Dental Board, the Dental Hygiene Committee, the Professional Fiduciaries Bureau, the Osteopathic Medical Board, the Board of Podiatric Medicine, and the Board of Chiropractic Examiners. The bill would have required new applicants and petitioners for reinstatement of a revoked, surrendered, or canceled license to successfully complete a state and federal level criminal record information search. Commencing January 1, 2011, it would require licensees who have not previously submitted fingerprints, or for whom a record of the submission of fingerprints no longer exists, to complete the process necessary for a state and federal criminal offender record information search, as specified. The bill provides that, as a condition of license renewal, a licensee, as specified, shall complete the process necessary for a state and federal criminal offender record information search, to be conducted as described through the

Department of Justice and the Federal Bureau of Investigation (FBI). It states that failure to provide the necessary information on the search renders an application for licensure incomplete. The bill further states that no license shall be renewed until certification by the licensee is received by the agency verifying that the licensee has complied with the specified requirements. SB 389 states that the certification shall be made on a form provided by the agency not later than the renewal date of the license. It requires the licensee to retain, for at least three years, specified evidence that the certification was made. It subjects to disciplinary action a licensee who falsely certifies completion of a state and federal level criminal record information search. It requires licensees, as a condition of renewal of the license, to notify the Board if the licensee, or any member of the personnel of record of the licensee, has been convicted of a felony or misdemeanor since the last renewal, or **whether** this is the first renewal since the initial license has been issued. It specifically requires the Contractors' State License Board to implement the provisions pertaining to license renewal on the date on which an appropriation is made in the Annual Budget Act to fund the Board's activities to accommodate a criminal history record check. It states that if these provisions become applicable to the Contractors' State License Board on or before July 1, 2012, it shall implement this bill according to a specified schedule. It states that if the provisions become applicable after July 1, 2012, the specified license renewal commencement dates shall be delayed for one year.

B. **Senate Bill 638 (Negrete McLeod) Regulatory Boards/Operations**

Status: The bill did not proceed through policy hearings due to on-going sunset discussions.

This bill included several similar provisions as SB 963, 2008, but does not enforce the same operational mandates on the Boards in terms of "ex-parte" communications, etc. Specifically, SB 638 revises the sunset review law to provide that when a board becomes inoperative the board's members are removed, as specified, and a successor board will be appointed with the same rights, duties, and membership parameters as the board it is succeeding.

C. **Senate Bill 820 (Negrete McLeod/Aanestad) Healing Arts/Peer Review**

Status: The bill was vetoed by the Governor.
The following was the veto message from the Governor regarding SB 820:

To the Members of the California State Senate:
I am returning Senate Bill 820 without my signature.
Peer review is an extremely important part of assuring the integrity and quality of care provided in our California hospitals. Unfortunately, the peer review process has also been criticized over the years because it increases litigious behavior, and lacks transparency and responsiveness. While perhaps well-intentioned, this bill does not provide a solution to the problem, but rather, jeopardizes the entire process by narrowing the reporting element to "serious" cases of incompetence involving only patients. How is this good policy? For example, what about a physician that engages in egregious behavior against hospital staff or even other physicians –how does this serve the public by keeping these reports from the Medical Board? This bill also fails to align with recent Joint Commission requirements that hospitals adopt a zero tolerance" policy towards physicians engaging in disruptive behavior in their interactions with nurses and other hospital staff. A peer review body should not be limited from acting on this type of behavior and in fact, should be encouraged to act more swiftly. I believe the peer review process is worth preserving. It does however, deserve to be thoroughly reviewed and reworked to ensure that inappropriate behavior of any kind is immediately acted upon. I would ask that the author and interested stakeholders work with my Department of Consumer Affairs to streamline and improve the peer review process in order to increase its effectiveness in taking action against providers that jeopardize quality or safety measures. For this reason, I am unable to sign this bill.
Sincerely,

Existing law provides for the professional review of specified healing arts licentiates through a peer review process and requires specified persons to file a report, designated as an "805 report," with a licensing board within 15 days after a specified action is taken against a person licensed by that board. SB 820 would also require specified persons to file a report with a licensing board within 15 days after a peer review body makes a decision or recommendation regarding the disciplinary action to be taken against a licentiate of that board based on the peer review body's determination, following formal investigation, that the licentiate *may have* engaged in various acts, including gross negligence, incompetence, substance abuse, excessive prescribing or furnishing of controlled substances, or sexual misconduct, among other things. The bill would authorize the board to inspect and copy certain documents in the record of that investigation. Existing law requires the board to maintain an 805 report for a period of 3 years after receipt. This bill would require the board to maintain the report electronically. Existing law authorizes the Medical Board of California, the Osteopathic Medical Board of California, and the Dental Board of California to inspect and copy certain documents in the record of any disciplinary proceeding resulting in action that is required to be reported in an 805 report. This bill would specify that the boards have the authority to also inspect any certified copy of medical records in the record of the disciplinary proceeding. Existing law requires specified healing arts boards to maintain a central file of their licensees containing, among other things, disciplinary information reported through 805 reports. Under this bill, if a court finds, *in a final judgment,* that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board would be required to include that finding in the licensee's central file. Existing law requires the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine to disclose an 805 report to specified health care entities and to disclose certain hospital disciplinary actions to inquiring members of the public. Existing law also requires the Medical Board of California to post hospital disciplinary actions regarding its licensees on the Internet. This bill would prohibit those disclosures and would require the Medical Board of California to remove certain information posted on the Internet if a court finds, *in a final judgment,* that the peer review resulting in the 805 report or the hospital disciplinary action was conducted in bad faith and the licensee notifies the board of that finding. The bill would also require the Medical Board of California *to include certain exculpatory or explanatory statements in those disclosures or postings and would require the board* to post on the Internet a fact sheet that explains and provides information on the 805 reporting requirements. Existing law also requires the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine to disclose to an inquiring member of the public information regarding enforcement actions taken against a licensee by the board or by another state or jurisdiction. This bill would also require those boards to make those disclosures regarding enforcement actions taken against former licensees.

D. Assembly Bill 613 (Beall) Medi-Cal Treatment Authorization Requests

Status: AB 613 was held under suspense in Appropriations and did not move forward this legislative session due to the impact to the General Fund.

As amended on May 5, 2009, AB 613 would have mandated changes to the TAR process. Under existing law, one of the utilization controls to which services are subject under the Medi-Cal program is the treatment authorization request (TAR) process, which is approval by a department consultant of a specified service in advance of the rendering of that service based upon a determination of medical necessity. Existing law requires the department to pursue means to improve and streamline the TAR process. This bill would have required the department, in pursuing means to improve and streamline the TAR process, to do so in specified ways, including performing a cost-benefit analysis for each procedure requiring a TAR and reducing the number of TARs required. Existing law specifies the

number of days within which certain TARs are required to be authorized. This bill would have reduced the number of days within which these TARs shall be authorized.

E. Assembly Bill 1310 (Hernandez) Healing Arts: Database

Status: AB 1310 was held under submission and did not continue through the legislative session.

Under existing law, there exists the Healthcare Workforce Development Division within the Office of Statewide Health Planning and Development (OSHPD) that supports health care accessibility through the promotion of a diverse and competent workforce and provides analysis of California's health care infrastructure. Under existing law, there is also the Health Care Workforce Clearinghouse, established by OSHPD, that serves as the central source for collection, analysis, and distribution of information on the health care workforce employment and educational data trends for the state. As amended on June 29, 2009, this bill would have required *certain healing arts boards* to c*ollect specified information from their licensees and would require those boards and the Department of Consumer Affairs to, as much as practicable, work with OSHPD to transfer that data to the Health Care Workforce Clearinghouse.* The bill would have *further* required *OSHPD*, in consultation with the division and the *department*, to select a database and to *also* add *collected* data to the database. The bill would have required the clearinghouse to prepare a written report relating to the data and to submit the report annually to the Legislature no later than March 1, commencing March 1, 2012.

X. Licensing / Enforcement Statistical Data- Report on Improved Enforcement Efforts

The Board reviewed the statistical data as provided by staff.

The Board requested additional detail on future licensing statistical data with respect to documenting speech-language pathology and audiology statistics separately, statistics for Required Professional Experience temporary license holders, and registered aides. In addition, the Board requested data displaying statistics for registered speech-language pathology assistants by those who hold bachelor's degrees and associate degrees.

Ms. Del Mugnaio stated that she would provide the requested statistical detail at the February Board meeting.

Ms. Del Mugnaio provided an overview of the new enforcement reform model as proposed by the Department of Consumer Affairs. She referenced a fact sheet providing steps the Department is prepared to take in order to assist all boards and bureaus with streamlining their enforcement efforts and improving processing timelines for all complaints and administrative actions. Ms. Del Mugnaio explained that significant resources in terms of staff time has been devoted in recent months to collecting enforcement statistics and reviewing internal procedures for reviewing and acting on enforcement cases, from complaint intake through administrative discipline. She stated that the Department is seeking to augment its staff and that of its boards and bureaus in the areas complaint intake, investigations, and legal counsel (both in-house deputy attorney general staff and paralegals). Ms. Del Mugnaio stated that legislative efforts are being pursued to provide the boards and bureaus with enhanced statutory authority to take administrative disciplinary action in a more timely manner in the interest of restricting negligent or impaired practitioners from professional practice, thus providing greater public protection. Ms. Del Mugnaio indicated that additional licensing revenue in the form of licensing fee increases may be necessary in order to off-set the expenses related to hiring additional staff. She stated that she is working with the Department's budget staff to examine future funding needs.

Ms. Del Mugnaio stated that a follow-up status report on the enforcement reform efforts and the associated legislative amendments would be provided at the next Board meeting.

XI. Public Comment on Items Not on the Agenda

Ms. Cindy Peffers addressed the Board and stated that, on behalf of the Hearing Health Care Providers of California (HHP), the HHP is looking forward to the merger of the two boards and the opportunities for overall program improvement.

XII. Announcements- Next Board Meeting- February 24-25, 2010 Sacramento Schedule Future 2010 Board Meetings

Ms. Del Mugnaio stated that the first meeting of the merged Board will be held in San Francisco instead of Sacramento on February 24-25, 2010, as the Board is able to secure meeting space in San Francisco at no charge.

The Board members inquired about new appointments to the Board and whether existing members should reapply for appointment to the merged Board.

Ms. Del Mugnaio stated that the direction she received from the Department's Board Relations staff indicated that existing members do not need to reapply for appointment at this time. She indicated that she would inquire again about the appropriate process for existing members who are interested in seeking Board reappointment in case something has changed and would notify the members.

XIII. Adjournment

Chairperson O'Connor adjourned the meeting at 1:17 p.m.

DEPARTMENT OF CONSUMER AFFAIRS

Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board

Speech-Language Pathology and Audiology

BUDGET REPORT

FY 2009-10 Expenditure Projection

BASED ON JANUARY 2010 CALSTARS REPORT

Month Number	7
Mo. Remaining	5

OBJECT DESCRIPTION	FY 2008-09 ACTUAL EXPENDITURES (MONTH 13)	FY 2008-09 EXPENDITURES AS OF 1/31/2009	FY 2009-10 Final BUDGET ALLOTMENT	FY 2009-10 EXPENDITURES AS OF 1/31/2010	FY 2009-10 EXPENDITURE PROJECTIONS AT YEAR END	FY 2009-10 UNENCUMBERED BALANCE AT YEAR END	FY 2009-10 STRAIGHT LINE	METHODOLOGY
PERSONAL SERVICES								
Salary & Wages	259,257	159,970	239,913	129,845	231,263	8,650	222,591	PC ROSTER
Temp Help 907	8,868	635	14,007	10,597	14,547	-540	18,166	PC ROSTER
Bd/Comm (901,920)	0	0	5,854	600	1,029	4,825	1,029	STRAIGHT LINE
Overtime	712	712	0	0	0	0	0	YEAR TO DATE
Benefits	98,720	59,939	93,461	53,592	87,951	5,510	91,872	STAFF BENEFIT RATIO
Salary Savings	0	0	(6,597)	0	0	-6,597	0	BUDGET AMOUNT
TOTAL PERS SVS	**367,557**	**221,256**	**346,638**	**194,634**	**334,790**	**11,848**	**333,658**	
OPERATING EXPENSES & EQUIPMENT								
Fingerprints	5,478	2,448	23,615	3,264	5,595	18,020	5,595	STRAIGHT LINE
General Expense	7,361	3,179	12,404	1,918	3,288	9,116	3,288	STRAIGHT LINE
Minor Equipment 226	6,411	9,803	3,800	0	3,800	0	0	FULL BUDGET
Printing	19,341	8,137	18,964	3,883	6,657	12,307	6,657	STRAIGHT LINE
Communication	6,977	2,749	9,624	2,042	6,977	2,647	3,501	PRIOR YEAR
Postage	16,880	9,035	2,598	10,489	17,981	-15,383	17,981	STRAIGHT LINE
Noc-Insurance	0	0	0	0	0	0	0	PRIOR YEAR
Travel In State	9,619	2,174	11,394	6,291	15,098	-3,704	15,098	STRAIGHT LINE (2)
Travel Out of State	698	698	1,324	0	0	1,324	0	YEAR TO DATE
Training	229	27	4,813	147	147	4,666	252	YEAR TO DATE
Facilities Ops	54,972	54,354	64,576	57,975	57,975	6,601	99,386	YEAR TO DATE
Alterations	0	0	0	0	0	0	0	PRIOR YEAR
C&P Serv. Internal	0	87	2,753	0	0	2,753	0	PRIOR YEAR
**C&P Serv. External	25	0	0	0	25	-25	0	PRIOR YEAR
DEPARTMENTAL PRORATA								
DP Billing (OIS)	60,002	42,952	69,222	43,841	69,222	0	75,156	FULL BUDGET
Indirect Dist. Cost	44,208	27,335	41,866	27,573	41,866	0	47,268	FULL BUDGET
DOI - Prorata	1,461	1,099	1,687	1,085	1,687	0	1,860	FULL BUDGET
Public Affairs	1,810	1,351	3,875	2,422	3,875	0	4,152	FULL BUDGET
CCED	2,104	3,549	2,040	1,316	2,040	0	2,256	FULL BUDGET
OPP Support Serves	0	0	0	0	0	0	0	FULL BUDGET
Interagency Agreement (IAC)	32,437	0	93	0	93	0	0	FULL BUDGET
Share Services (MBC)	88	88	0	0	0	0	0	FULL BUDGET
CONSOLIDATED DATA CENTERS								
Consolidated Data Cntr (Teale)	400	2,000	5,460	2,000	400	5,060	3,429	PRIOR YEAR
DATA PROCESSING								
DP Maint & supplies (432,436)	248	248	3,806	0	248	3,558	0	PRIOR YEAR
IT Hardware	0	0	0	0	0	0	0	PRIOR YEAR
Electric Waste/Recycle	32	32	0	0	32	-32	0	PRIOR YEAR
CENTRAL ADMINISTRATIVE SVC								
Central Adm. Services (Statewide Prora	37,706	18,853	34,942	17,471	34,942	0	29,950	FULL BUDGET
EXAMS								
Exam supplies & freight	0	0	0	0	0	0	0	PRIOR YEAR
Exam Site rental	0	0	0	0	0	0	0	PRIOR YEAR
Expert Exam	0	0	0	0	0	0	0	PRIOR YEAR
Exam Contracts	0	0	0	0	0	0	0	PRIOR YEAR
Expert Examiners (SME)	3,785	0	0	0	0	0	0	ESTIMATE
ENFORCEMENT				0				
Attorney General	43,857	15,531	48,572	31,255	53,580	-5,008	53,580	STRAIGHT LINE
Off of Admin Hearings	2,087	327	5,112	993	2,087	3,025	1,702	PRIOR YEAR
Evidence/Witness	10,057	807	6,428	4,700	5,100	1,328	8,057	ESTIMATE
Court Reporter Servs	500	0	0	0	500	-500	0	PRIOR YEAR
Div of Investigations	47,648	31,717	0	0	0	0	0	FULL BUDGET
MAJOR EQUIPMENT								
Major Equipment	0	0	0	0	0	0	0	FULL BUDGET
OTHER								
Special adjustment	0	0	0	0	0	0	0	PRIOR YEAR
Tort Payment	0	0	0	0	0	0	0	PRIOR YEAR
Total OE & E	**416,421**	**238,580**	**378,968**	**218,665**	**333,216**	**45,752**	**379,168**	
TOTAL EXPENDITURES	**783,978**	**459,836**	**725,606**	**413,299**	**668,005**	**57,601**	**712,826**	
Fingerprint Reimb.	(6,022)	(2,243)	(22,000)	(3,060)	(5,246)	(16,754)	(5,246)	STRAIGHT LINE
Other Scheduled Reimb.	(6,905)	(4,545)	(2,000)	(3,815)	(6,540)	4,540	(6,540)	STRAIGHT LINE
Total Reimbursements	**(12,927)**	**(6,788)**	**(24,000)**	**(6,875)**	**(11,786)**	**(12,214)**	**(11,786)**	
NET APPROPRIATION	**771,051**	**453,048**	**701,606**	**406,424**	**656,219**	**45,387**	**689,255**	

NOTES/ASSUMPTIONS

1. CY expenditures include YTD+ Encumbrances

TOTAL PROJECTED DEFICIT/SURPLUS	**45,387**
OE&E TARGET REDUCTION:	**(33,594)**
ADJUSTED DEFICIT/SURPLUS:	**11,793**

REVENUE FOR FY 2009-2010					**% OF ESTIMATE COLLECTED**	**PRIOR YEAR**
CATEGORY	CODE	ESTIMATED	YTD	+ / -		FY 2008-09
FINGERPRINTS	991937.01	$ 22,000.00	$ 3,060.00	(18,940.00)	14%	6,022.00
PUBLIC SALES	991937.02	$ 2,000.00	$ 3,815.00	1,815.00	191%	6,905.00
UNSCHEDULED	995988	$ -	$ 1,150.00	1,150.00	-	14,540.25
	TOTAL:	$ 24,000.00	$ 8,025.00	(15,975.00)	33%	27,467.25
OTHER	125600	$ 13,100.00	$ 7,255.00	(5,845.00)	55%	8,259.75
INITIAL APPLICATION	125700	$ 74,810.00	$ 44,573.00	(30,237.00)	60%	36,562.00
RENEWAL	125800	$ 674,285.00	$ 458,495.00	(215,790.00)	68%	277,265.09
DELINQUENT	125900	$ 23,350.00	$ 8,774.00	(14,576.00)	38%	9,775.00
INTEREST	150300	$ 21,000.00	$ 4,616.36	(16,383.64)	22%	21,145.53
MISCELLANEOUS	161000	$ -	$ 120.00	120.00	-	848.00
MISCELLANEOUS	161400	$ -	$ 140.00	140.00	-	70.00
	TOTAL:	$ 806,545.00	$ 523,973.36	(282,571.64)	65%	353,925.37
	TOTAL:	$ 830,545.00	$ 531,998.36	(298,546.64)	64%	381,392.62

DEPARTMENT OF CONSUMER AFFAIRS

Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board

Hearing Aid Dispensers

BUDGET REPORT

FY 2009-10 Expenditure Projection

BASED ON JANUARY 2010 CALSTARS REPORT

Month Number	7
Mo. Remaining	5

OBJECT DESCRIPTION	FY 2008-09 ACTUAL EXPENDITURES (MONTH 13)	FY 2008-09 EXPENDITURES AS OF 1/31/2009	FY 2009-10 Final BUDGET ALLOTMENT	FY 2009-10 EXPENDITURES AS OF 1/31/2010	FY 2009-10 EXPENDITURE PROJECTIONS AT YEAR END	FY 2009-10 UNENCUMBERED BALANCE AT YEAR END	FY 2009-10 STRAIGHT LINE	METHODOLOGY
PERSONAL SERVICES								
Salary & Wages	208,160	117,354	197,499	109,518	205,664	-8,165	187,745	PC ROSTER
Temp Help 907	39,601	20,452	0	1,375	1,375	-1,375	2,357	PC ROSTER
Bd/Comm (901,920)	4,700	2,600	5,822	700	700	5,122	1,200	PC ROSTER
Allocated Proctor Comp	632	0		302	302			PC ROSTER
Overtime	6,136	2,760	0	77	77	-77	132	PC ROSTER
Benefits	95,543	53,127	71,847	46,269	77,831	-5,984	79,318	STAFF BENEFIT RATIO
Salary Savings	0	0	(6,610)	0	0	-6,610	0	PRIOR YEAR
TOTAL PERS SVS	**354,772**	**196,293**	**268,558**	**158,241**	**285,949**	**-17,391**	**270,753**	
OPERATING EXPENSES & EQUIPMENT								
Fingerprints	51	51	9,000	134	134	8,866	230	YEAR TO DATE
General Expense	12,040	2,584	26,782	765	5,000	21,782	1,311	ESTIMATE
Minor Equipment 226	151	0	35,700	19,784	19,784	15,916	33,915	YEAR TO DATE
Printing	2,181	957	12,573	1,018	2,181	10,392	1,745	PRIOR YEAR
Communication	2,169	539	8,743	1,590	2,726	6,017	2,726	STRAIGHT LINE
Postage	6,508	2,238	12,573	4,928	8,448	4,125	8,448	STRAIGHT LINE
Noc-Insurance	0	0	0	0	0	0	0	PRIOR YEAR
Travel In State	32,790	15,872	23,163	3,411	20,000	3,163	5,847	ESTIMATE
Travel Out of State	0	0	0	0	0	0	0	FULL BUDGET
Training	326	19	3,633	0	0	3,633	0	YEAR TO DATE
Facilities Ops	34,112	32,867	43,508	43,012	43,012	496	73,735	YEAR TO DATE
Alterations	0	0	0	0	0	0	0	PRIOR YEAR
C&P Serv. Internal	0	0	137	0	0	137	0	PRIOR YEAR
**C&P Serv. External	0	0	0	0	0	0	0	PRIOR YEAR
DEPARTMENTAL PRORATA								
DP Billing (OIS)	29,399	21,049	41,630	26,362	41,630	0	45,192	FULL BUDGET
Indirect Dist. Cost	57,397	35,490	55,410	36,470	55,410	0	62,520	FULL BUDGET
DOI - Prorata	1,165	875	1,351	868	1,351	0	1,488	FULL BUDGET
Public Affairs	1,448	1,085	3,101	1,939	3,101	0	3,324	FULL BUDGET
CCED	21,397	13,580	57,836	37,863	57,836	0	64,908	FULL BUDGET
OPP Support Serves	0	0	0	0	0	0	0	FULL BUDGET
Interagency Agreement (IAC)	26,790	26,790	29,351	32,210	29,351	0	55,217	FULL BUDGET
IA Share Services	0	0	96	0	96	0	0	FULL BUDGET
CONSOLIDATED DATA CENTERS								
Consolidated Data Cntr (Teale)	200	6,000	2,555	6,000	200	2,355	10,286	PRIOR YEAR
DATA PROCESSING								
DP Maint & supplies (432,436)	0	0	12,770	0	0	12,770	0	PRIOR YEAR
IT Hardware	0	0	0	0	0	0	0	PRIOR YEAR
Electric Waste/Recycle	0	0	0	0	0	0	0	PRIOR YEAR
CENTRAL ADMINISTRATIVE SVC								
Central Adm. Services (Statewide Prora	31,642	15,821	22,692	11,346	22,692	0	19,450	FULL BUDGET
EXAMS								
Exam Rent - State Owned	5,476	2,373	0	0	5,476	-5,476	0	PRIOR YEAR
Exam Rent - Non State	0	0	7,663	0	0	7,663	0	PRIOR YEAR
Administrative - Ext S	13,150	13,150	25,542	15,250	15,250	10,292	26,143	YEAR TO DATE
C/P Svs - Expert Exam	0	0	37,913	0	0	37,913	0	PRIOR YEAR
C/P Svs - Ext Sub Ma	48,405	20,255	0	15,736	48,405	-48,405	26,976	PRIOR YEAR
ENFORCEMENT								
Attorney General	23,174	5,855	41,995	18,853	37,705	4,290	32,319	ESTIMATE
Off of Admin Hearings	8,577	0	16,637	3,759	8,577	8,060	6,444	PRIOR YEAR
Evidence/Witness	0	0	1,277	0	0	1,277	0	PRIOR YEAR
Court Reporter Servs	334	0	0	0	334	-334	0	PRIOR YEAR
Div of Investigations	3,187	2,121	160,615	104,426	160,615	0	179,016	FULL BUDGET
MAJOR EQUIPMENT								
Major Equipment	0	0	0	0	0	0	0	FULL BUDGET
OTHER								
Special adjustment	0	0	0	0	0	0	0	PRIOR YEAR
Tort Payment	0	0	0	0	0	0	0	PRIOR YEAR
Total OE & E	**362,069**	**219,571**	**694,246**	**385,724**	**589,314**	**104,932**	**661,241**	
TOTAL EXPENDITURES	**716,841**	**415,864**	**962,804**	**543,965**	**875,263**	**87,541**	**931,994**	
Scheduled Reimbursements	(1,971)	0	(9,000)	(2,232)	(3,826)	(5,174)	(3,826)	STRAIGHT LINE
Unscheduled Reimbursements	(1,750)	0	0	0	0	0	0	YEAR TO DATE
Total Reimbursements	**(3,721)**	**0**	**(9,000)**	**(2,232)**	**(3,826)**	**(5,174)**	**(3,826)**	
NET APPROPRIATION	**713,120**	**415,864**	**953,804**	**541,733**	**871,436**	**82,368**	**3,578,326**	

NOTES/ASSUMPTIONS

1. CY expenditures include YTD+ Encumbrances

TOTAL PROJECTED DEFICIT/SURPLUS	**82,368**
OE&E TARGET REDUCTION:	**(80,287)**
ADJUSTED DEFICIT/SURPLUS:	**2,081**

REVENUE FOR FY 2009-2010					% OF ESTIMATE	FY 2008-09	
CATEGORY	CODE	ESTIMATED	YTD	+ / -	COLLECTED	Scheduled	Actual
FINGERPRINTS	991937.01	$ 9,000.00	$ 102.00	(8,898.00)	1%	9,000.00	51.00
PUBLIC SALES	991937.02	$ -	$ 2,130.00	2,130.00	#DIV/0!	0.00	1,920.00
UNSCHEDULED	995988	$ -	$ -	0.00	-	0.00	1,749.96
	TOTAL:	$ 9,000.00	$ 2,232.00	(6,768.00)	25%	9,000.00	3,720.96
OTHER	125600	$ -	$ 1,360.00	1,360.00	#DIV/0!	4,000.00	765.00
INITIAL APPLICATION	125700	$ -	$ 66,810.00	66,810.00	#DIV/0!	135,000.00	194,750.00
RENEWAL	125800	$ -	$ 317,053.00	317,053.00	#DIV/0!	453,000.00	489,745.00
DELINQUENT	125900	$ -	$ 2,850.00	2,850.00	#DIV/0!	4,000.00	4,750.00
INTEREST	150300	$ -	$ 4,600.71	4,600.71	#DIV/0!	55,000.00	29,106.47
MISCELLANEOUS	161000	$ -	$ 175.00	175.00	-	0.00	405.00
MISCELLANEOUS	161400	$ -	$ 25.00	25.00	-	0.00	30.00
	TOTAL:	$ -	$ 392,873.71	392,873.71	#DIV/0!	651,000.00	719,551.47
	TOTAL:	$ 9,000.00	$ 395,105.71	386,105.71	4390%	660,000.00	723,272.43

SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY BOARD

Article 3. Qualifications for Licensure-Education and Clinical Experience

1399.152. Approved Institutions.

(a) For the purposes of this Section, the term "institution" means the facility where a student attends and receives his or her primary academic and clinical preparation including the institution's satellite sites or campuses. The term "joint program" means a program wherein each of the member institutions is a separate degree-granting entity.
(b) An "institution approved by the board" as used in Section 2532.2 of the code is defined as:
(1) An educational institution (or in the case of a joint program, educational institutions) that is accredited by a regio nal or national accred iting body recogn ized by the United S tates Department of Education, and
(2) Has program accreditation in the area for which licensu re is sought by an accred iting body recognized by the United States D epartment of Education or the Council on Higher Education Accreditation (CHEA) or its pr edecessor, the Council on Posts econdary Accreditation (COPA), or a comparable accrediting body recognized by the Board.
(c) A graduate speech-language pathology or audiology program shall be accredited or shall be designated as a program in candidacy by the accrediting body authorized by the American Speech-Language-Hearing Association at the time of the applicant's graduation.
(d) A post-baccalaureate audiology doctoral program shall be accredited or shall be designated as a program in candidacy by the accrediting body authorized by the American Speech-Language-Hearing Association or shall be accredited or shall be designated as a program in candidacy by another accrediting body as specified in subsection (b) above.
(e) In its discretion the board may approve after its review any educational program, <u>with academic and clinical requirements equivalent to an accredited graduate or doctoral training program as provided for above, but</u> ~~consistent with subsection (c) or (d) above~~, which is not accredited under one of the above-mentioned criteria.

NOTE: Authority cited: Sections 2531.95 <u>and 2532.2</u>, Business and Professions Code. Reference: Section 2532.2 Business and Professions Code.

1399.153.3. Responsibilities of RPE Supervisors.

An RPE supervisor's responsibilities shall include, but are not limited to:
(a) Legal responsibility for the health, safety and welfare of the patients treated by the RPE temporary license holder.
(b) Insuring that the extent, kind, and quality of functions performed by an RPE temporary license holder under the supervisor's supervision is in compliance with these regulations and is consistent with the RPE temporary license holder's education and training.
(c) Insuring that such supervision consists of direct monitoring for a minimum of eight hours per month for each full-time RPE temporary license holder and four hours per month for each part-time RPE temporary license holder.
(d) "Direct monitoring" of the RPE temporary license holder may consist of the personal observation of the following:

(1) evaluation and assessment procedures;
(2) treatm ent procedures;
(3) record keeping, evaluation or assessment reports, correspondence, plans for management, and summaries of case conferences;
(4) participation in case conferences.
At least 50% of the supervisor's observation shall be of the RPE temporary license holder's evaluation, assessment and treatment procedures.
(e) Reviewing and evaluating the RPE temporary license holder's performance on a monthly basis for the purpose of improving his or her professional expertise. The RPE supervisor shall discuss the evaluations with the RPE temporary license holder and maintain written documentation of these evaluations and reviews. The written evaluations shall be signed by both the RPE supervisor and the RPE temporary license holder. If the supervisor determines the RPE temporary license holder is not minimally competent for licensure, the RPE temporary license holder shall be so notified orally and in writing. A written statement documenting the basis for the supervisor's determination shall be submitted with the final verification of experience to the board.
(f) Reviewing and countersigning all evaluation and assessment reports, treatment plans, progress and discharge reports drafted by the RPE temporary license holder.
(g) A "Required professional experience supervisor" must have completed not less than six (6) hours of continuing professional development in supervision training prior to assuming responsibility as a RPE supervisor, and three (3) hours of continuing professional development in supervision training every four ~~two~~ years thereafter. If the continuing professional development in supervision training is obtained by a board- approved provider as defined in Section 2532.6 subdivision (e) of the code, the hours may be applied towards the continuing professional development requirement for licensees set forth in Section 1399.160.3 of the California Code of Regulations.

NOTE: Authority cited: Sections 2531.95, 2532.2 and 2532.6 Business and Professions Code. Reference: Section 2532.2 and 2532.6 Business and Professions Code.

Article 11. Continuing Professional Development

1399.160.3. Continuing Professional Development Requirements.

(a) A licensee, whose license expires in the year 2001, shall accrue at least twelve (12) hours of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than four (4) hours of continuing professional development courses through self-study courses during this renewal period.
(b) A licensee who holds both a speech-language pathology license and an audiology license that expire in the year 2001, shall accrue at least eight (8) hours of continuing professional development courses as defined in Section 1399.160.4. for each license. A licensee may accrue no more than two (2) hours of continuing professional development courses through self-study courses for each license.
(c) A licensee shall accrue at least twenty-four (24) hours during a single renewal period of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than eight (8) hours of continuing professional development courses through the following activities during a single renewal period. :
(1) No more than ~~four (4)~~ six (6) hours of self-study activities,
(2) No more than four (4) hours from courses related to the discipline of speech-language

pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).
(3) Not more than 50% of the continuing professional development hours required of a licensed audiologist, shall be obtained from courses where the content focuses on equipment, devices, or other products of a particular publisher, company or corporation.
(d) A licensee who holds both a speech-language pathology license and an audiology license, shall accrue at least sixteen (16) hours of continuing professional development courses as defined in Section 1399.160.4 for each license. A licensee may accrue no more than five (5) hours of continuing professional development through the following activities for each license:
(1) No more than two and one-half (2.5) hours of self-study activities,
(2) No more than two and one-half (2.5) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).
(e) If a licensee teaches a course offered by a provider registered with the board or an entity listed in Section 2532.6 of the Code, the licensee may claim credit for the same course only once, receiving the same amount of hours of continuing professional development credit as a licensee who attended the course.
(f) A licensee may not claim credit for the same course more than once for hours of continuing professional development.
(g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing professional development.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

1399.160.4. Continuing Professional Development Course Content.

(a) A licensed speech-language pathologist~~s~~ shall determine that the content and learning outcomes of a course are relevant to the practice of speech-language pathology as defined in Section 2530.2(d).
(b) A licensed audiologist shall determine that the content and learning outcomes of a course are relevant to the practice of audiology as defined in Section 2530.2(k).
(c)The content of a course shall pertain to direct, related, or indirect patient/client care.
(1) Examples of direct patient/client care courses for the practice of speech-language pathology include: fluency disorders, voice disorders, motor disorders of speech, dysphagia, speech science, oral and written language disorders, aphasia and neurogenic disorders of language and cognition, augmentative and alternative communication, phonological/articulatory disorders language science, and patient/client counseling to facilitate recovery from, or adjustment to, a communication disorder.
(2) Examples of direct patient/client care courses for the practice of audiology include auditory and vestibular assessment, auditory habilitation/rehabilitation, hearing assistive technology, industrial audiology/hearing conservation and hearing science.
(3) Indirect patient/client care courses cover pragmatic aspects of speech-language pathology or audiology practice (e.g., legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, ~~supervision training~~, technological applications related to assessment/diagnosis or intervention).
(4) Courses that are related to the discipline of speech-language pathology or audiology may cover general medical or educational offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations,

(d) A provider shall ensure that a course has specific objectives that are measurable.
(e) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.
(f) Courses considered outside the scope of continuing professional development include, but are not limited to, those in the following areas:
(1) money management, the licensee's personal finances or personal business matters;
(2) physical fitness or the licensee's personal health;
(3) presentations by political or public figures or other persons that do not deal primarily with the practice of either speech-language pathology or audiology;
(4) tort liability;
(5) courses that address increased office production or computerization, financial planning, employee benefits, marketing or motivational topics to increase productivity or profitability; and
(6) courses in which the primary beneficiary is the licensee, not the consumer.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

Dated: __November 5, 2009_ _____

Anne marie Del Mugnaio
Executive Officer
Speech-Language Pathology & Audiology Board

Agenda Item V. B. 2

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

ARTICLE 2 APPLICATIONS

Adopt Sections 1399.128-1399.128.1 of Division 13.3- and Sections 1300.157.3-1399.157.4 of Division 13.4- Tile 16 of the California Code of Regulations to read as follows:

Division 13.3 Article 5.
General Rules Regarding Fingerprint Requirement

Section 1399.128. Response to Board Inquiry.

If the board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 3352 & 144 Business and Professions Code, and Section 11105 Penal Code

Section 1399.128.1. Fingerprint and Disclosure Requirements for Renewal of License.

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.
(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.
(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.
(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license, must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.
(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.
(b) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under $300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.
(c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.
(d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 3352 & 144 Business and Professions Code, and Section 11105 Penal Code

Division 13.4 Article 8.
General Rules Regarding Fingerprint Requirement

Section 1399.157.3. Response to Board Inquiry.

If the board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code

Section 1399.157.4. Fingerprint and Disclosure Requirements for Renewal of License.

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.
(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.
(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.
(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license, must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.
(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.
(b) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under $300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.
(c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.
(d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code

TITLE 16 CALIFORNIA CODE OF REGULATIONS

Article 1. General Provisions

1399.150.2. Definitions.

(a) For the purpose of the regulations contained in this division, the term:
(1) "Board" means the Speech-Language Pathology and Audiology Board;
(2) "Medical Board" means the Medical Board of California;
(3) "Code" means the California Business and Professions Code:
(4) "Act" means the Speech-Language Pathologists and Audiologists Licensure Act;
(b) As used in Section 2530.2, subdivision (e), of the Code:
(1) "The development and disorders of speech" means the development and disorders of articulation, fluency, mastication and deglutition.
(2) "The development and disorders of voice" means the development and disorders of vocal quality and vocal production.
(3) "The development and disorders of language" means the development and disorders of auditory processing, auditory memory, verbal language, written language, visual processing, visual memory, cognition and communication, and non-verbal/non-oral language.
(c) As used in Section 2530.2(k) of the Business and Professions Code, the term "aural habilitation and rehabilitation" includes the evaluation of patients for cochlear implantation, fitting, and mapping of the external processor, and related rehabilitation and follow-up services, including testing the function of the cochlear implant at the time of surgery to ensure appropriate placement.

NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.2 and 2531.95, Business and Professions Code.

Title 16 Division 13.4
Article 5. Speech-Language Pathology & Audiology Aides

1399.154. Definitions.

As used in this article, the term:

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

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

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

(b) "Audiology aide" means a person who

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

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

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

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

(e) Direct supervision means on-site observation and guidance by the speech-language pathology or audiology supervisor while the speech-language pathology or audiology aide is treating a patient or client.

NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.2 and 2530.6, Business and Professions Code.

1399.154.2. Responsibilities of Aide's Supervisor.

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

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

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

(c)~~Be physically present while the speech-language pathology or audiology aide is assisting with patients, unless an alternate plan of supervision has been approved by the board. A supervisor of an industrial audiology aides shall include a proposed plan for alternative supervision with the application form. An industrial audiology aide may only be authorized to conduct puretone air conduction threshold audiograms when performing outside the physical presence of a supervisor. The supervisor shall review the patient histories and the audiograms and make the necessary referrals for evaluation and treatment.~~ Directly supervise the speech-pathology or audiology aide when he or she is engaged in direct client or patient care or assisting with patients. Direct supervision is not required for an industrial audiology aide, if all of the following conditions are met:

(1) An alternative plan of supervision has been approved by the board.

(2) The supervisor includes the proposed plan with his or her application form.

(3) The only activity the industrial audiology aide performs outside the physical presence of the supervisor is puretone air conduction threshold audiograms.

(4) Following the conduction of any puretone air conduction threshold audiograms, the supervisor reviews the patient histories and the audiograms and make any necessary referrals for evaluation and treatment.

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

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

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

NOTE: Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2530.2 and 2530.6, Business and Professions Code.

SPEECH-LANGUAGE PATHOLGOY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Title 16, Division 13.4, California Code of Regulations
Speech-Language Pathology and Audiology Regulations

Article 8. Miscellaneous

1399.157. Fees.

(a) The application fee shall be $60.00.

(b) The biennial renewal fee for licensed speech-language pathologists and audiologists which expire prior to January 31, 2002 shall be $75.00. Effective January 1, 2002, the biennial renewal fee for licensed speech-language pathologists or audiologists shall be $110.00.

(c) The biennial renewal fee for a licensed dispensing audiologist shall be $280.

(c) The fee for registration of an aide shall be $10.00

(d) The application and the biennial renewal fee for a continuing professional development provider is a $200 non-refundable fee.

(e) The fee for issuance of a license status and history certification letter shall be $10.00.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Sections 163.5, 2532.6(f), and 2534.2, Business and Professions Code.

Article 11. Continuing Professional Development

1399.160.3. Continuing Professional Development Requirements.

(a) A licensee, whose license expires in the year 2001, shall accrue at least twelve (12) hours of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than four (4) hours of continuing professional development courses through self-study courses during this renewal period.

(b) A licensee who holds both a speech-language pathology license and an audiology license that expire in the year 2001, shall accrue at least eight (8) hours of continuing professional development courses as defined in Section 1399.160.4. for each license. A licensee may accrue no more than two (2) hours of continuing professional development courses through self-study courses for each license.

(c) A licensee shall accrue at least twenty-four (24) hours during a single renewal period of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than eight (8) hours of continuing professional development courses through the following activities during a single renewal period:

(1) No more than four (4) hours of self-study activities,

(2) No more than four (4) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(3) Not more than 50% of the continuing professional development hours required of a licensed audiologist, shall be obtained from courses where the content focuses on equipment, devices, or other products of a particular publisher, company or corporation.

(d) A licensee who holds both a speech-language pathology license and an audiology license, shall accrue at least sixteen (16) hours of continuing professional development courses as defined in Section 1399.160.4 for each license. A licensee may accrue no more than five (5) hours of continuing professional development through the following activities for each license:

(1) No more than two and one-half (2.5) hours of self-study activities,

(2) No more than two and one-half (2.5) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(e) A licensed audiologist authorized to dispense hearing aids as provided by Section 2539.1 of the code shall accrue at least twelve (12) hours of continuing professional development as defined in Section 1399.160.4 annually. A licensee may accrue no more than (3) hours of continuing professional development courses through the following activities during a single renewal period:

(1) No more than one and a half (1.5) hours of self-study activities,

(2) No more than one and a half (1.5) hours from courses related to the discipline of audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(3) At least, be not greater than 50% of the continuing professional development hours required of a dispensing audiologist, shall be obtained from courses related to hearing aid dispensing but shall not be obtained from courses where the content focuses on equipment, devices, or other products of a particular publisher, company, or corporation.

(e)~~—~~ (f) If a licensee teaches a course offered by a provider registered with the board or an entity listed in Section 2532.6 of the Code, the licensee may claim credit for the same course only once, receiving the same amount of hours of continuing professional development credit as a licensee who attended the course.

(f)~~—~~ (g) A licensee may not claim credit for the same course more than once for hours of continuing professional development.

(g)~~—~~ (h) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing professional development.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), and 2539.1(a)-(b) Business and Professions Code.

State of California Department of Consumer Affairs

Speech-Language Pathology and Audiology Board
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ATTACHMENT 1

CONTINUING PROFESSIONAL DEVELOPMENT EXCERPTS

Extracts from the Business and Professions Code
Article 3. Licensure

2532.6. Continuing Professional Development

(a) The Legislature recognizes that the education and experience requirements of this chapter constitute only minimal requirements to assure the public of professional competence. The Legislature encourages all professionals licensed and registered by the board under this chapter to regularly engage in continuing professional development and learning that is related and relevant to the professions of speech-language pathology and audiology.

(b) On and after January 1, 2001, and until January 1, 2002, the board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the board that he or she has completed, after April 12, 1999, and prior to his or her renewal date in 2001, not less than the minimum number of continuing professional development hours established by the board pursuant to subdivision (c) for the professional practice authorized by his or her license. On and after January 1, 2002, the board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the board that he or she has completed in the preceding two years not less than the minimum number of continuing professional development hours established by the board pursuant to subdivision (c) for the professional practice authorized by his or her license or registration.

(c) (1) The board shall prescribe the forms utilized for and the number of hours of required continuing professional development for persons licensed or registered under this chapter.

(2) The board shall have the right to audit the records of any applicant to verify the completion of the continuing professional development requirements.

(3) Applicants shall maintain records of completion of required continuing professional development coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(d) The board shall establish exceptions from the continuing professional development requirements of this section for good cause as defined by the board.

(e) (1) The continuing professional development services shall be obtained from accredited institutions of higher learning, organizations approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, the California Medical Association's Institute for Medical Quality Continuing Medical Education Program, or other entities or organizations approved as continuing professional development providers by the board, in its discretion.

(2) No hours shall be credited for any course enrolled in by a licensee that has not first been approved and certified by the board, if the board has sufficient funding and staff resources to implement the approval and certification process.

(3) The continuing professional development services offered by these entities may, but are not required to, utilize pretesting and posttesting or other evaluation techniques to measure and demonstrate improved professional learning and competency.

(4) An accredited institution of higher learning, an organization approved as continuing education providers by either the American Speech-Language Hearing Association or the American Academy of Audiology, and the California Medical Association's Institute for Medical Quality Continuing Education Program shall be exempt from any application or registration fees that the board may charge for continuing education providers.

(5) Unless a course offered by entities listed in paragraph (4) meets the requirements established by the board, the course may not be credited towards the continuing professional development requirements for license renewal.

(6) The licensee shall be responsible for obtaining the required course completion documents for courses offered by entities specified in paragraph (1).

(f) The board, by regulation, shall fund the administration of this section through professional development services provider and licensing fees to be deposited in the Speech-Language Pathology and Audiology Board Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section.

(g) The continuing professional development requirements adopted by the board shall comply with any guidelines for mandatory continuing education established by the Department of Consumer Affairs.

Extracts from California Code of Regulations
Article 2. Applications

Subsection (d) of Section 1399.151.1

(d) Continuing Professional Development Provider Approvals.

(1) The board shall inform in writing an applicant for approval as a continuing professional development provider within 30 days whether the application is complete and accepted for filing or is deficient and what specific information is required.

(2) The board shall inform in writing an applicant for approval as a continuing professional development provider within 30 days completion of the application, of its decision whether the applicant meets the requirements for approval. “Completion of the application” means that a completed application form together with all required information, documentation and fees have been filed by the applicant.

(e) Continuing Professional Development Course Submissions.

(1) The board shall inform in writing a licensee and/or a continuing professional development provider within 30 days as to whether a voluntary petition for course approval documentation is complete and accepted for filing or is deficient and what specific information is required to correct the deficiency. The term “complete” means that all required information and documentation has been filed by the licensee and/or continuing professional development provider.

(2) The board shall inform in writing a licensee and/or continuing professional development provider within 45 days after completion of the documentation submitted for a voluntary petition for course approval, of its decision whether the course meets the course content requirements as defined in Section 1399.160 .4.

Extracts from California Code of Regulations
Article 8. Miscellaneous

Subsection (d) of Section 1399.157

(d) The application and the biennial renewal fee for a continuing professional development provider is a $200 non-refundable fee.

Article 11. Continuing Professional Development

1399.160. Definitions.

As used in this article:

(a) A continuing professional development “course” means a form of systematic learning at least one hour (60 minutes) in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, and self-study courses.

(b) A “self-study course” means a form of systematic learning performed at a licensee’s residence, office, or other private location including, but not limited to, viewing of videotapes, and listening to audiotapes, or participating in “self-assessment testing” (open-book tests that are completed by the licensee, submitted to the provider, graded, and returned to the licensee with correct answers and an explanation of why the answer chosen by the provider was the correct answer). A self-study course does not mean a course taken at an accredited university towards a degree.

(c) A continuing professional development “provider” means an accredited institution of higher learning, a nonprofit education association, a nonprofit professional association, an individual, or other organization that

offers continuing professional development courses and meets the requirements contained in this article.

(d) A "renewal period" means the two-year period that spans from a license's expiration date to the license's next expiration date.

(e) An "operational plan" means a detailed, written description which contains information that explains how the provider intends to conduct business, advertise its courses, provide educational services, and meet the minimum standards established in this article.

(f) "Professional development" shall have the same meaning and effect as the term "continuing education" when interpreting the provisions in this Article.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c)(1), (e), and (f), Business and Professions Code.

1399.160.1. License Renewal Requirements.

(a) Except as provided in Section 1399.160.2, a licensee whose license expires in the year 2001, shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed twelve (12) hours of continuing professional development courses.

(b) Except as provided in Section 1399.160.2, a licensee who holds both a speech-language pathology license and an audiology license that expire in the year 2001, shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed eight (8) hours of continuing professional development courses for each license for a total of sixteen (16) hours.

(c) Except as provided in Section 1399.160.2, a licensee shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed twenty-four (24) hours of continuing professional development courses.

(d) Except as provided in Section 1399.160.2, a licensee who holds both a speech-language pathology license and an audiology license, shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed sixteen (16) hours of continuing professional development courses for each license for a total of thirty-two (32) hours.

(e) A licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify the completion of the continuing professional development requirement by producing a record of course completion, upon request by the board, is subject to disciplinary action under Section 2533(e) of the Code.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Sections 2532.6(b), (c), (d), and 2533.(e), Business and Professions Code.

1399.160.2. Exemptions from Continuing Professional Development.

(a) An initial licensee shall complete at least twelve (12) hours of continuing professional development, of which no more than four (4) hours may be earned through the following activities prior to his or her first license renewal:

(1) No more than (2) hours of self-study activities,

(2) No more than (2) hours from courses related to the discipline of speech-language pathology or audiology as defined in Section 1399.160.4(c)(4), or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(b) A licensee is exempt from the continuing professional development requirement if his or her license is inactive pursuant to Sections 703 and 704 of the Code.

(c) A licensee may submit a written request for exemption from the continuing professional development requirement for any of the reasons listed below. The board will notify the licensee, within thirty (30) working days after receipt of the request for exemption, whether the exemption was granted. If the request for exemption is denied, the licensee is responsible for completing the full amount of continuing professional development required for license renewal. The board shall grant the exemption if the licensee can provide evidence, satisfactory to the board, that:

(1) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;

(2) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or

(3) During the licensee's previous renewal period, the licensee or an immediate family member, where the licensee has primary responsibility for the care of that family member, was suffering from or suffered a disability. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. The disability shall be verified by a licensed physician or psychologist with special

expertise in the area of disability. Verification of the disability shall include:

(A) the nature and extent of the disability;

(B) an explanation of how the disability hinders the licensee from completing the continuing professional development requirement; and

(C) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(d), Business and Professions Code.

1399.160.3. Continuing Professional Development Requirements.

(a) A licensee, whose license expires in the year 2001, shall accrue at least twelve (12) hours of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than four (4) hours of continuing professional development courses through self-study courses during this renewal period.

(b) A licensee who holds both a speech-language pathology license and an audiology license that expire in the year 2001, shall accrue at least eight (8) hours of continuing professional development courses as defined in Section 1399.160.4. for each license. A licensee may accrue no more than two (2) hours of continuing professional development courses through self-study courses for each license.

(c) A licensee shall accrue at least twenty-four (24) hours during a single renewal period of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than eight (8) hours of continuing professional development courses through the following activities during a single renewal period:

(1) No more than four (4) hours of self-study activities,

(2) No more than four (4) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(3) Not more than 50% of the continuing professional development hours required of a licensed audiologist, shall be obtained from courses where the content focuses on equipment, devices, or other products of a particular publisher, company or corporation.

(d) A licensee who holds both a speech-language pathology license and an audiology license, shall accrue at least sixteen (16) hours of continuing professional development courses as defined in Section 1399.160.4 for each license. A licensee may accrue no more than five (5) hours of continuing professional development through the following activities for each license:

(1) No more than two and one-half (2.5) hours of self-study activities,

(2) No more than two and one-half (2.5) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(e) If a licensee teaches a course offered by a provider registered with the board or an entity listed in Section 2532.6 of the Code, the licensee may claim credit for the same course only once, receiving the same amount of hours of continuing professional development credit as a licensee who attended the course.

(f) A licensee may not claim credit for the same course more than once for hours of continuing professional development.

(g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing professional development.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

1399.160.4. Continuing Professional Development Course Content.

(a) A licensed speech-language pathologist~~s~~ shall determine that the content and learning outcomes of a course are relevant to the practice of speech-language pathology as defined in Section 2530.2(d).

(b) A licensed audiologist shall determine that the content and learning outcomes of a course are relevant to the practice of audiology as defined in Section 2530.2(k).

(c) The content of a course shall pertain to direct, related, or indirect patient/client care.

(1) Examples of direct patient/client care courses for the practice of speech-language pathology include: fluency disorders, voice disorders, motor disorders of speech, dysphagia, speech science, oral and written language disorders, aphasia and neurogenic disorders of language and cognition, augmentative and alternative communication, phonological/articulatory disorders language science, and patient/client counseling to facilitate recovery from, or adjustment to, a communication disorder.

(2) Examples of direct patient/client care courses for the practice of audiology include auditory and vestibular assessment, auditory habilitation/rehabilitation, hearing assistive technology, industrial

audiology/hearing conservation and hearing science.

(3) Indirect patient/client care courses cover pragmatic aspects of speech-language pathology or audiology practice (e.g., legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, supervision training, technological applications related to assessment/diagnosis or intervention).

(4) Courses that are related to the discipline of speech-language pathology or audiology may cover general medical or educational offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, professional service delivery models, interdisciplinary case management issues, or medical pathologies related to neurological disorders that also result in communication difficulties.

(d) A provider shall ensure that a course has specific objectives that are measurable.

(e) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

(f) Courses considered outside the scope of continuing professional development include, but are not limited to, those in the following areas:

(1) money management, the licensee's personal finances or personal business matters;

(2) general physical fitness or the licensee's personal health;

(3) presentations by political or public figures or other persons that do not deal primarily with the practice of either speech-language pathology or audiology;

(4) tort liability;

(5) courses that address increased office production or computerization, financial planning, employee benefits, marketing or motivational topics to increase productivity or profitability; and

(6) courses in which the primary beneficiary is the licensee, not the consumer.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

1399.160.5. Hours of Continuing Professional Development.

(a) One hour of instruction is equal to one hour of continuing professional development credit.

(b) One academic quarter unit is equal to ten (10) hours of continuing professional development credit.

(c) One academic semester unit is equal to fifteen (15) hours of continuing professional development credit.

(d) One academic trimester unit is equal to thirteen (13) hours of continuing professional development credit.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), and (c), Business and Professions Code.

1399.160.6. Continuing Professional Development Course Approval.

(a) A licensee shall only be credited with continuing professional development hours if he or she takes a course from a board-approved provider with a valid, current approval as a provider or from an entity listed in Section 2532.6 (e)(1) of the Code.

(b) A licensee or a continuing professional development provider may voluntarily petition Board consideration of any courses offered by an approved provider or an entity listed in Section 2532.6 (e)(1) of the Code. The licensee or continuing professional development provider must submit such request for course approval to the Board according to the timeline in Section 1399.151.1 (e). Such request shall include:

(1) The name of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (e)(1) and (e) (2), Business and Professions Code.

1399.160.7. Board-Approved Providers.

(a) A continuing professional development provider shall meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) An applicant for continuing professional development provider shall submit a completed Continuing Professional Development Provider Application (form no. 77A-50, new 1/99), hereby incorporated by reference, remit the appropriate fees, submit a complete operational plan, and obtain a continuing professional provider number from the board to become a board-approved provider.

(c) A provider approval issued under this section shall expire twenty-four months after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the biennial renewal fee set forth in Section 1399.157 of these regulations.

(d) A provider approval that is not renewed by the expiration date may not be renewed, restored, reinstated, or reissued thereafter, but the provider may apply for a new approval.

(e) Board-approved provider status is not transferable.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(e)(1) and (e)(2), Business and Professions Code.

1399.160.8. Revocation and Denial of Board-Approved Provider Status.

(a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:

(1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;

(2) a provider, who is a licensee of the board, fails to comply with any provisions of the Speech-Language Pathologists and Audiologists Licensure Act (Business and Professions Code Section 2530 et seq.) or Title 16, Division 13.4 of the California Code of Regulations (Sections 1399.150 et seq.); or

(3) a provider makes a material misrepresentation of fact in information submitted to the board.

(4) a provider fails to comply with any provisions of the Speech-Language Pathologists and Audiologists Licensure Act (Business and Professions Code Section 2530 et seq.) or Title 16, Division 13.4 of the California Code of Regulations (Sections 1399.150 et seq.) applicable to continuing professional development providers.

(b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial. The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point. Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven (7) days after receipt of the decision of the board's designee, and request a hearing with a continuing education appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The continuing professional development appeals committee shall contain three board members, one public board member and two members representing both license types regulated by the board. The decision of the continuing professional development appeals committee is final.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(e), Business and Professions Code.

1399.160.9. Course Advertisement.

A provider shall ensure that information publicizing a continuing professional development course is accurate and includes the following:

(a) the provider’s name;

(b) the provider’s approval number from the board;

(c) the statement “Course meets the qualifications for _____ hours of continuing professional development credit for (Speech-Language Pathologists or Audiologists as the case may be) as required by the California Speech-Language Pathology and Audiology Board”;

(d) the provider’s policy on refunds in cases of non-attendance by the registrant or cancellation by the provider;

(e) a clear, concise description of the course content and learning outcomes;

(f) a statement describing the level of the course content; and

(g) a personal disclosure statement if either the instructor or provider has a personal financial interest in the course content

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(e), Business and Professions Code.

1399.160.10. Course Instructor Qualifications.

A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:

(a) a license, registration, or certificate in an area related to the subject matter of the course. The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by this board or any other health care regulatory agency;

(b) a valid, current certification in the subject area issued by the American Speech-Language-Hearing

Association or the American Board of Audiology;

(c) training, certification, or experience in teaching courses in the subject matter; or

(d) at least two years' experience in an area related to the subject matter of the course.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(e), Business and Professions Code.

1399.160.11. Records of Course Completion.

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the following information:

(a) name of licensee and licensee's license number;

(b) course title;

(c) provider name and address;

(d) provider approval number;

(e) date of course;

(f) number of hours of continuing professional development credit; and

(g) signature of course instructor, provider, or provider designee.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

1399.160.12. Licensee and Provider Course Records.

(a) A licensee shall maintain records of course completion for a period of at least two (2) years from the date of license renewal for which the course was completed.

(b) A provider shall maintain records related to continuing professional development courses for a period of at least four (4) years. Records shall include:

(1) syllabi for all courses;

(2) the time and location of all courses;

(3) course advertisements;

(4) course instructors' vitaes or resumes;

(5) attendance rosters with the names and license numbers of licensees who attended the courses;

(6) sign-in sheets; and

(7) records of course completion issued to licensees who attended the courses.

(c) The board may audit the course records of a licensee or a provider to ensure compliance with the board's continuing professional development requirements.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

1399.160.13. Continuing Professional Development for Out-of-State Applicants.

Applicants for initial licensure who are licensed in another state and apply for licensure in this state are not required to complete any California continuing professional development hours until their first renewal.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(d), Business and Professions Code.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
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September 5, 2009

Terri Delgadillo, Director
Department of Developmental Services
1600 Ninth Street
Sacramento, CA 95814

RE: Services to Infants and Toddlers identified as Deaf and Hard of Hearing

Dear Ms Delgadillo:

We are writing to express our concern regarding the provision of services to infants and toddlers who are deaf or hard of hearing (D/HH) and who may be served by a variety of agencies, including a Regional Center. The system for providing Early Intervention services for D/HH children in California is both complicated and fractured. Children with only a D/HH diagnosis (solely low-incidence) are served by the Local Education Area (LEA) but, if the child demonstrates additional disabilities, Regional Centers (RCs) take over management of all of the child's needs, including (theoretically) the Early Intervention program addressing their hearing, speech and language development.

We are aware of a number of specific cases involving a variety of RC's where parents of D/HH children have been told by the service coordinator that 'Regional Center does not provide these services.' In one case, the parent was given a brochure to go to the John Tracy Clinic, a private non-profit that provides free services independently. In another case, the Mother reported great frustration because she did not know how to communicate with her baby. In yet another case, only a hearing test was mentioned in the IFSP, and the parent was told that 'Regional Center does not provide services for the hearing loss'.

The National Initiative on Children's Healthcare Quality (NICHQ), a collaborative focusing on the early identification and provision of early intervention services for deaf and hard of hearing infants in Southern California, is aware of these situations and many other similar cases. NICHQ has expressed great concern regarding lack of access to quality care in the birth to 3 population for those who have, or are at risk for developmental delay in addition to a hearing impairment.

It is well documented that best speech and language outcomes accrue when children's services are provided by speech-language pathologists, teachers of the deaf and hard of hearing, and or audiologists with specific skills in working with young children with impaired hearing. For example, the Joint Committee on Infant Hearing (JCIH), a national multi-specialty group, developed a 2007 position statement that says:

> "Early intervention services for infants with confirmed hearing loss should be provided by professionals who have expertise in hearing loss, including educators of the deaf, speech-language pathologists, and audiologists."

In a further document, the JCIH states as an objective for Care/Service Coordination that:

> "All families have timely access (within 45 days) to care/service coordination from a professional with specialized knowledge and skills in early childhood deafness and hearing loss assuring a

seamless transition from confirmation of hearing loss to the initiation of early intervention services and that counseling and information are provided in a manner that promotes the family's emotional health and well-being."

This additional document goes on to specifically state that the individual with first contact needs the following specialized knowledge and experience related to:

1) infancy/early childhood, deafness and hearing loss,
2) parent counseling, especially grief counseling specific to deafness and hearing loss,
3) development of language,
4) auditory skill development,
5) speech development,
6) cognitive development, and
7) social-emotional development.

Certainly, individuals who make first contact must be able to answer parents' questions about hearing loss and provide further explanation of:

1) screening technologies,
2) audiologic diagnostic evaluations,
3) amplification choices,
4) methods of communication,
5) communication development from infancy through early childhood: language, auditory, speech, social-emotional
6) resources in deafness, hearing and hearing loss,
7) medical aspects of hearing loss – likelihood of progression, improvement,
8) current research,
9) choices/options. EI providers who are the first contact for families need the skills to be able to re-explain audiological reports and information, information about amplification choices and methods/modes of communication.

While our initial concern, as mentioned above, was the issue of whether or not deaf and hard of hearing infants provided services through the Regional Center system would be served by professionals with specific expertise in speech, language and psychosocial development, we now have an additional concern as to how the present cuts in DDS eligibility will further impact these children. It is not at all clear whether children who have a diagnosed hearing loss and have another "at risk" condition such as prematurity will be eligible for Early Start services through the Regional Center system. Parents, upon hearing that their child has been "exited" from the Regional Center as "no longer eligible" may not understand that they are then eligible for EI services for hearing impairment through the Local Education Area (LEA).

As noted in the opening paragraph, the system in California for serving deaf and hard of hearing infants is complicated and fractured. D/HH children, depending on whether there are additional developmental delays, receive unequal care: those receiving services in the LEA are well-served; those receiving services through the RC apparently receive a far lesser-quality intervention program. Parents who are already overwhelmed with the child's disabilities are now left to navigate a very complex system with little guidance from those that should be providing support and assistance.

The Board, believing that this is a significant consumer protection issue, requests that DDS and the Department of Education jointly address how the LEA could be supported and empowered to provide appropriate services for ALL children with hearing impairment, while the DDS continues to provide services addressing developmental delay. With coordinated services, all children would receive

appropriate, and equivalent, Early Intervention services for their hearing impairment, regardless of whether there are additional handicapping conditions.

Sincerely,

Lisa C. O'Connor, MA, Board Chair
ASHA Certified Speech Language Pathologist

Alison M. Grimes, AuD, Board Vice Chair
Board Certified Audiologist, American Board of Audiology

Cc: Dr. Mac Petersen, Chair
Interagency Coordinating Council

DRAFT

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

~~July 16, 2004~~ February 2010

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

DISCIPLINARY GUIDELINES

TABLE OF CONTENTS

- 1399.155 Uniform Standards Related to Substance Abuse and Disciplinary Guidelines — Page 3
- Disciplinary Guidelines — Page 3
- Standard Terms and Conditions of Probation (1-13) — Page 8
- Optional Terms and Conditions of Probation (14-28) — Page 14
- Recommended Language for Issuance and Placement of a License on Probation for Initial Licensure and Reinstatement of License — Page 17
- Penalties for Disciplinary Actions — Page 18

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Section 1399.155 of Division 13.4 of Title 16, Article 6 entitled "Disciplinary Guidelines" of the California Code of Regulations is amended to read:

Article 6. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

1399.155. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall ~~consider the disciplinary guidelines entitled~~ comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Revised Insert New Revision Date ~~July 16, 2004~~," that are hereby incorporated by reference. Deviation from the~~se~~ disciplinary guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; and evidentiary problems. Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.

Note: Authority cited: Sections 2531.95, Business and Professions Code; and Sections 11400.20, Government Code. Reference: Sections 2533 and 2533.1, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

UNIFORMA STANDARDS FOR THOSE LICENSEES WHOSE LICENSE IS ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM

The following standards shall be adhered to in all cases in licensee's license is placed on probation due to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, however, the Board may impose more restrictive conditions if necessary to protect the public.

Clinical Diagnostic Evaluations:

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

Clinical Diagnostic Evaluation Report:

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluation, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

WORK SITE MONITOR REQUIREMENTS:

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored or be another health care professional if no monitor with like practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:
a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, at least once per week.

b) Interview other staff in the office regarding the licensee's behavior, if applicable.
c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; staff interviewed if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

If a licensee tests positive for a banned substance, the Board shall automatically suspend the licensee's license, immediately contact the licensee and inform him or her that their license has been suspended and they may not work until the suspension is lifted. The Board shall also immediately notify the licensee's employer that the licensee' license has been automatically suspended and he or she may not work until the suspension is lifted.

Major and Minor Violations

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiply minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance;

8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee commits a major violation, the Board shall automatically suspend the licensee's license and refer the matter for disciplinary action or other action as determined by the Board.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licnesee or to the public.

If a licensee commits a minor violation, the Board shall determine what action is appropriate.

DRUG TESTING STANDARDS

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year and at any time as directed by the board. After the first year, licensees, who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.

2. Drug testing may be required on any day, including weekends and holidays.

3. The scheduling of drug tests shall be done on a random basis, preferably by a computer program.

4. Licensees shall be required to make daily contact to determine if drug testing is required.

5. Licensees shall be drug tested on the date of notification as directed by the board.

6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

9. Collection of specimens shall be observed.

10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

DISCIPLINARY GUIDELINES

The Board recognizes that these penalties and conditions of probation are guidelines, and that each disciplinary case must be assessed individually. If individual circumstances exist that justify omissions or deviations from these guidelines, the Board asks that these be explained by the Administrative Law Judge hearing the case. This will help the Board to better evaluate proposed decisions and to make decisions that accurately reflect the facts of each specific disciplinary matter.

Except where otherwise indicated, the following terms and conditions apply to speech-language pathologists, ~~and~~ audiologists, dispensing audiologists ~~as well as~~ and speech-language pathology assistants.

STANDARD TERMS AND CONDITIONS OF PROBATION (1-13)

1. OBEY ALL LAWS:

Respondent shall obey all federal, state, and local laws, including all statutes and regulations governing the practice of the licensee.

Further, respondent shall, within five (5) days of any arrest, submit to the Board in writing a full and detailed account of such arrest.

2. COMPLY WITH PROBATION PROGRAM

Respondent shall fully comply with the probation program established by the Board and shall cooperate with the representatives of the Board.

3. CHANGE OF ADDRESS NOTIFICATION

Respondent shall, within five (5) days of a change of residence or mailing address, notify the Board in writing of the new address.

4. OUT-OF-STATE RESIDENCY

Respondent shall notify the Board immediately in writing if he or she leaves California to reside or practice in another state.

Respondent shall notify the Board immediately upon return to California.

The period of probation shall be tolled during the time respondent is residing or practicing outside California.

5. SUBMIT QUARTERLY WRITTEN DECLARATIONS

Respondent shall submit to the Board quarterly written declarations and verification of actions signed under penalty of perjury. These declarations shall certify and document compliance with all the conditions of probation.

6. NOTIFY EMPLOYER OF PROBATION TERMS AND RESTRICTIONS
[Complies with Uniform Standard #3]
When currently employed, ~~or~~ applying for employment, or contracted to provide services as a speech-language pathologist, audiologist, dispensing audiologist, or speech-language pathology assistant, respondent shall notify his or her employer and supervisor or contractor of the probationary status of respondent's license. This notification to the respondent's current employer and supervisor, or contractor shall occur no later than the effective date of the Decision placing respondent on probation. The respondent shall notify any prospective employer and supervisor or contractor of his or her probationary status with the Board prior to accepting such employment. This notification shall ~~be by~~ include ~~providing the employer or prospective employer with~~ a copy of the Board's Decision placing respondent on probation.
The respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors and contractors.

The respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to

Respondent shall cause each employer and supervisor or contractor to submit quarterly written declarations to the Board. These declarations shall include a performance evaluation.

Respondent shall notify the Board, in writing, of any change in his or her employment status, within ten (10) days of such change.

7. INTERVIEWS WITH BOARD REPRESENTATIVES

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice. An initial probation visit will be required within sixty (60) days of the effective date of the Decision. The purpose of this initial interview is to introduce Respondent to the Board's representatives and to familiarize Respondent with specific probation conditions and requirements. Additional meetings may be scheduled as needed.

8. EMPLOYMENT LIMITATIONS

While on probation, Respondent may not work as a faculty member in an accredited or approved school of speech-language pathology or school of audiology.

9. EDUCATIONAL COURSE

Respondent shall take and successfully complete course work substantially related to the violation. Within sixty (60) days of the effective date of the Decision, Respondent shall submit a plan to comply with this requirement. Respondent must obtain approval of such plan by the Board prior to enrollment in any course of study.

Respondent shall successfully complete the required remedial education no later than the end of the first year of probation. Upon successful completion of the course, Respondent shall cause the instructor to furnish proof to the Board immediately.

10. FUNCTION IN LICENSED CAPACITY

During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity or his or her license is temporarily suspended, the period of probation shall be tolled during that time.

11. MAINTAIN A VALID LICENSE

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

~~Should Respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement, Respondent's license shall be subject to any and all terms of this probation not previously satisfied.~~

12. VIOLATION OF PROBATION

If Respondent violates probation in any respect, the Board may seek to revoke probation and carry out the disciplinary order that was stayed. The Respondent shall receive prior notice and the opportunity to be heard. If a Petition to Revoke Probation, an Accusation, a Petition to Vacate Stay or other formal disciplinary action is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended and Respondent shall comply with all probation conditions until the matter is final.

13. COMPLETION OF PROBATION

Respondent's license will be fully restored upon successful completion of probation.

OPTIONAL TERMS AND CONDITIONS
OF PROBATION (14-26)

14. SUBMIT TO EXAMINATION BY PHYSICIAN

Within sixty (60) days of the effective date of the Decision, Respondent shall submit to a physical examination by a physician and surgeon of his or her choice who meets minimum criteria established by the Board. The physician and surgeon shall ~~must~~ be licensed in California and Board certified in Family Practice, Internal Medicine, or a related specialty. The purpose of this examination shall be to determine Respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Decision prior to the examination. Cost of such examination shall be paid by Respondent.

Respondent shall cause the physician and surgeon to complete a written medical report. This report shall be submitted by the physician and surgeon to the Board

within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that Respondent is not physically fit to practice or can only practice with restrictions, the ~~examining~~ physician and surgeon shall notify the Board within three (3) working days. The Board shall notify the respondent in writing of the ~~examining~~ physician~~'s~~ and surgeon's determination of unfitness to practice and shall order the Respondent to cease practice or place restrictions on Respondent's practice. ~~licensed activities as a condition of probation.~~ Respondent shall comply with any order to cease practice or restriction of his or her practice ~~this condition~~ until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent in writing. ~~Respondent shall document compliance in the manner required by the Board.~~

15. PSYCHOLOGICAL EVALUATION

Respondent shall participate in a psychiatric or psychological evaluation. This evaluation shall be for the purpose of determining Respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the evaluation. The evaluation shall be performed by a ~~psychiatrist~~ physician and surgeon licensed in California and Board certified in psychiatry or by a clinical psychologist licensed in California approved by the Board.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to~~ the Board shall provide to the Respondent, the name of one or more proposed evaluators ~~for prior approval by the Board~~ approved to conduct the psychological evaluation.

Respondent shall fully cooperate with the provision and undergo a psychiatric or psychological evaluation within thirty (30) days of the effective date of the Decision. The ~~cause the~~ evaluator ~~to~~ shall submit to the Board a written psychiatric or psychological report evaluating Respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ~~ninety (90)~~ sixty (60) days from the effective date of the Decision. Cost of ~~such~~ the evaluation shall be paid by the Respondent.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the evaluator shall verbally notify the Board within ~~three (3)~~ one (1) working day~~s~~. The Board shall notify the Respondent in writing of the evaluator's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the

Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

16. PSYCHOTHERAPY

Respondent shall participate in ongoing psychotherapy with a California licensed ~~psychiatrist~~ physician and surgeon who is Board certified in Psychiatry, clinical psychologist, marriage, family, and child counselor, or licensed clinical social worker approved by the Board. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to~~ the Board shall submit to the Respondent the name of one or more proposed therapists ~~for prior~~ approved~~al.~~ to provide on-going therapy ~~Upon approval by the Board,~~ Respondent shall commence psychotherapy within ten (10) days of receiving notification by the Board of the name's of approved therapists. Respondent shall provide the therapist with a copy of the Board's Decision no later than the first counseling session.

If the therapist finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board within three (3) working days. The Board shall notify the Respondent in writing of the therapist's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent.

~~Respondent shall cause~~ ~~t~~The therapist shall ~~to~~ submit quarterly written declarations to the Board concerning Respondent's fitness to practice and progress in treatment.

17. CLINICAL DIAGNOSTIC EVALUATION- [Complies with Uniform Standards 1&2]

Within twenty (20) days of the effective date of the Decision and at any time upon

Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license shall be automatically suspended for minimum of one month pending the results of a clinical diagnostic evaluation. [Pending statutory amendments providing authority for automatic suspension] During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one-month of negative drug test results. Respondent shall comply with any restrictions or recommendations made as a result of the clinical diagnostic evaluation.

~~17. REHABILITATION PROGRAM~~

~~Within thirty (30) days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.~~

~~Components of the treatment contract shall be relevant to the violation and to the Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs.~~

~~The cost for participation in this program shall be paid for by Respondent.~~

18. ATTEND CHEMICAL DEPENDENCY SUPPORT AND RECOVERY GROUPS- [Complies with Uniform Standard #5]

Within five (5) days of the effective date of the Decision, Respondent shall begin

attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Documentation of attendance shall be submitted by the Respondent with each quarterly written report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board in writing that attendance is no longer required.

19. ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bonafide illness.

20. ABSTAIN FROM USE OF ALCOHOL

Respondent shall completely abstain from the intake ~~use~~ of alcohol~~ic~~ ~~beverages~~ during the period of probation.

21. SUBMIT BIOLOGICAL FLUID SAMPLES- [Complies with Uniform Standards #4 & #8]

Respondent shall immediately submit to random and directed biological fluid testing paid for by Respondent, at the request of the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation and at minimum of fifty (50) random tests per year thereafter for the duration of the probationary term. ~~Positive test results will be reported to the Board~~ If Respondent test positive for a banned substance, Respondent's license shall be automatically suspended. [Pending statutory amendments providing authority for automatic suspension of the license] Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

22. TAKE AND PASS LICENSURE EXAMINATION

Before resuming practice, Respondent shall take and pass the licensure examination currently required of new applicants prior to resuming practice. Respondent shall pay all examination fees.

23. SUPERVISED PRACTICE

The Board shall be informed and approve of the type of supervision or monitoring provided while the Respondent is functioning as a licensed speech-language pathologist, licensed audiologist or dispensing audiologist, or speech-language pathology assistant.

Respondent may not function as a supervisor for any required professional experience (RPE) candidate or any speech-language pathology assistant or aide, during the period of probation or until approved by the Board.

24. WORKSITE MONITOR

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

25. RESTRICTIONS ON LICENSED PRACTICE

Respondent shall practice only with a restricted patient population, in a restricted practice setting, or engage in limited practice procedures. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in the manner required by the Board.

26. RECOVERY OF COSTS

Where an order for recovery of costs is made, the Respondent shall make timely payments as directed in the Decision.

27. ACTUAL SUSPENSION OF LICENSE

As part of probation, respondent is suspended from practice for ____months beginning the effective date of this decision. Respondent shall be responsible for informing his or her employer of the Board's decision, the reasons for the length of suspension. Prior to the lifting of the actual suspension of license, the Board shall receive pertinent documentation confirming that respondent is safe to

Board. ~~Respondent shall provide documentation of completion of educational courses or treatment rehabilitation if required.~~

RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION FOR INITIAL LICENSURE AND REINSTATEMENT OF LICENSE

In order to provide clarity and consistency in its decisions, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board recommends the following language in proposed decisions or stipulated agreements for applicants who hold a license in another state and for petitioners for reinstatement who are issued a license that is placed on probation.

Suggested language for applicants who are placed on probation:

"The application of respondent _____ for licensure is hereby granted. Upon successful completion of all licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:"

Suggested language for applicants who are licensed in another state and are placed on probation:

"The application of respondent for licensure is hereby granted and a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of ____ years on the following terms and conditions:"

Suggested language for reinstatement of licensure with conditions of probation:

"The application of respondent _____ for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:"

PENALTIES FOR DISCIPLINARY ACTIONS

UNPROFESSIONAL CONDUCT (GENERAL)

Sections 480 & 2533 of the Business and Professions Code
Section 1399.156 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13) If warranted: Supervised Practice (23) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

UNPROFESSIONAL CONDUCT -- CONVICTION OF A CRIME OR ACT INVOLVING DISHONESTY, FRAUD, OR DECEIT

Sections 480(a)(1), 480(a)(2), 490 & 2533(a) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13) If warranted: Supervised Practice (23) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

UNPROFESSIONAL CONDUCT -- SECURING LICENSE UNLAWFULLY

Sections 498 & 2533(b) of the Business and Professions Code

MINIMUM	Revocation or Denial

Note: The severity of this offense warrants revocation or denial in all cases.

UNPROFESSIONAL CONDUCT -- USE OR ADMINISTERING TO ONESELF ANY CONTROLLED SUBSTANCE

Section 2533(c)(1) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Physician Exam (14) Clinical Diagnostic Evaluation (17) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Worksite Monitor (24) Supervised Practice (23) Suspension (27) If warranted: Psychological Evaluation (15) Psychotherapy (16) ~~Drug and Alcohol Rehabilitation (17)~~ Restricted Practice (25) ~~Suspension (26)~~

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT -- USE OF ANY DANGEROUS DRUGS SPECIFIED IN SECTION 4022 OF BUSINESS AND PROFESSION CODE, OR USE OF ALCOHOLIC BEVERAGES EXTENT IMPAIRS ABILITY TO PRACTICE SAFELY

Section 2533(c)(2) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Physician Exam (14) Clinical Diagnostic Evaluation (17) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20)

Submit Biological Fluids (21)
Supervised Practice (23)
Worksite Monitor (24)
Suspension (27)
If warranted:
Psychological Evaluation (15)
Psychotherapy (16)
~~Drug and Alcohol Rehabilitation (17)~~
Restricted Practice (25)
~~Suspension (26)~~

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT -- MORE THAN ONE MISDEMEANOR OR ANY FELONY INVOLVING USE, CONSUMPTION, OR SELF-ADMINISTRATION OF ANY CONTROLLED SUBSTANCES, ALCOHOL, OR DANGEROUS DRUG

Section 2533(c)(3) of the Business and Professions Code

MAXIMUM — Revocation or Denial

MINIMUM — 18 Months Probation
Standard Terms of Probation (1-13)
Clinical Diagnostic Evaluation (17)
Support and Recovery Group (18)
Abstain from Drugs and Alcohol (19-20)
Submit Biological Fluids (21)
Worksite Monitor (24)
Suspension (27)
If warranted:
Physical Examination (14)
Psychological Evaluation (15)
~~Drug and Alcohol Rehabilitation (17)~~
Supervised Practice (23)
Restricted Practice (25)
~~Suspension (26)~~

Note: In some instances public safety can only be assured by removing the

licensee from practice. Factors to consider are; conviction of possession of drugs for sale, contribution to delinquency of minors, and other similar offenses.

UNPROFESSIONAL CONDUCT -- ADVERTISING

Section 1399.156.4 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms (1-13) If warranted: Supervised Practice (23)

UNPROFESSIONAL CONDUCT -- COMMITTING A DISHONEST OR FRAUDULENT ACT SUBSTANTIALLY RELATED TO QUALIFICATIONS, FUNCTIONS, OR DUTIES OF LICENSEES (Non-Drug Related)

Section 2533(e) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13) Supervised Practice (23) If warranted: Physician Examination (14) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

UNPROFESSIONAL CONDUCT AIDING AND ABETTING IN THE COMMISSION OF A VIOLATION OF AN ACT OR REGULATION

Section 1399.156(a) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13)

UNPROFESSIONAL CONDUCT-CORRUPT OR ABUSIVE ACT AGAINST A PATIENT

Section 1399.156(b) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Supervised Practice (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (25) Suspension (27)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT- INCOMPETENCE OR NEGLIGENCE

Section 1399.156(c) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Supervised Practice (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (25) Suspension (27)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT BY SPEECH-LANGUAGE PATHOLOGY CORPORATION OR AUDIOLOGY CORPORATION

Section 2537, 2537.2, 2537.3 & 2537.4 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13)

DISCIPLINARY ACT BY FOREIGN JURISDICTION

Section 141 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13) If warranted: Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Physical Examination (14) Psychological Evaluation (15) Clinical Diagnostic Evaluation (17) ~~Drug and Alcohol Rehabilitation (17)~~ Supervised Practice (23) Worksite Monitor (24) Restricted Practice (25) Suspension (27)

SEXUAL MISCONDUCT

Section 726 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Supervised Practice (23) If warranted: Psychological Evaluation (15) Psychotherapy (16)

Restricted Practice (25)
Suspension (27)

VIOLATION OF REQUIRED PROFESSIONAL EXPERIENCE (RPE) REGULATIONS

Sections 1399.153 – 1399.153.10 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13)

VIOLATION OF LAWS AND REGULATIONS RELATING TO SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AIDES

Section 2530.6 of the Business and Professions Code
Sections 1399.154 – 1399.154.7 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13)

VIOLATION OF LAWS AND REGULATIONS RELATING TO SPEECH-LANGUAGE PATHOLOGY ASSISTANTS

Sections 2533 & 2538.1 of the Business and Professions Code
Sections 1399.170.19 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-13) If warranted: Physician Exam (14) Psychological Examination (15) Psychotherapy (16) Clinical Diagnostic Evaluation (17) ~~Drug and Alcohol Rehabilitation (17)~~ Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Supervised Practice (23)

Worksite Monitor (24)
Restricted Practice (25)
Suspension (27)

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Senate Business, Professions and Economic Development Committee
COMMITTEE BILL: PROPOSED LEGISLATION

REQUESTOR/CONTACT INFORMATION:

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
Contact: Annemarie Del Mugnaio, Executive Officer
Annemarie_delmugnaio@dca.ca.gov (916) 263-2909

DATE SUBMITTED:

January 14, 2010

SUMMARY:

Assembly Bill 1535 statutes of 2009, merged the Speech-Language Pathology and Audiology Board with the Hearing Aid Dispensers Bureau to create the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board effective January 1, 2010. In addition to merging the two entities to form one Board, AB 1535 redefined the practice of audiology to include the authority for audiologists to sell hearing aids under a "dispensing audiology certificate." Licensed audiologists who held valid and clear hearing aid dispensers licenses as of January 1, 2010 were deemed to have satisfied the requisite hearing aid dispensers' examination, and were grandfathered into a dispensing audiology license. Any audiologist who did not hold the hearing aid dispensers license as of January 1, 2010, is subject to the hearing aid dispensers' examination requirements in order to qualify for the dispensing audiology certificate. The Board is seeking to make technical clarifying amendments to the provisions of AB 1535, specifically, Business and Professions Code Sections 2530.2 and 2539.1, in order to clearly provide for the authority of audiologists to dispense hearing aids under the audiology license provided all hearing aid dispensers' examination prerequisites have been satisfied.

IDENTIFICATION OF PROBLEM:

The provisions of AB 1535 did not entirely accomplish the intent of the bill which was to eliminate the need for audiologists to hold both the hearing aid dispensers license and the audiology license. AB 1535 instead created a "certification" category with a limited grandfathering provision that has been extremely difficult to implement from an administrative perspective. First, AB 1535 did not clearly specify renewal cycles and requirements for dispensing audiologists and while it referred to the audiology license as the authorization for audiologists to sell hearing aids, the bill included a certification process which creates confusion in terms of the single license concept. In addition, AB 1535 did not take in to consideration the following situations: (1) audiologists who either had an inactive or delinquent hearing aid dispensers license as of January 1, 2010, but subsequently reactivates/renews the license and seeks to dispense under the valid audiology license (under the current provisions of AB 1535, the audiologist would be required to maintain both licenses or retake the hearing aid dispensers' examination); and, (2) a licensed hearing aid dispenser who after January 1, 2010, becomes eligible for licensure as an audiologist, (current provisions of AB 1535 would require the hearing aid dispenser to obtain a separate audiology license, since the individual was not licensed as an audiologist as of January 1, 2010.

PROPOSED SOLUTION:

The Board is seeking to provide technical clean-up amendments to Sections 2530.2 and 2539.1 to clearly define the terms of a dispensing audiologist and to provide an avenue for those who have met all of the established prerequisites for both the audiology license and the hearing aid dispensers license to be eligible to provide professional services under one license as was the intent of AB 1535.

PROGRAM BACKGROUND/LEGISLATIVE HISTORY:

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During the 2009 Legislative Session, Assembly Bill 1535, authored by Assembly Member Jones, merged the Speech-Language Pathology and Audiology Board with the Hearing Aid Dispensers Bureau to create one oversight Board (The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board) in an effort to consolidate regulatory oversight for professions with similar health care responsibilities and to streamline duplicative administrative functions. AB 1535 was also a vehicle to eliminate duplicative licensure authorization for audiologists who dispensed hearing aids in the state and were required to hold both the audiology license and the hearing aid dispensers license, provided the licensed audiologist had demonstrated competency in the dispensing of hearing aids by taking and passing the state hearing aid dispensing examination. While the Legislature supported the provisions of AB 1535 with respect to the elimination of dual licensure, last minute amendments to the bill introduced a layer of administrative bureaucracy that complicated the implementation of the necessary processes and created confusion in practice authorization to the affected practitioners.

JUSTIFICATION: The proposed amendments should serve to clarify the initial intent of AB 1535 by eliminating the need for audiologists to hold both a hearing aid dispensers license and an audiology license in order to sell hearing aids in the state and will remove duplicative administrative processes on the part of the Board (that is issuing additional certifications to licensed audiologists who sell hearing aids) **There is an available coding option for the Board within its existing database to identify an audiologist as a "dispensing audiologist" without the need for an additional certification document and separate tracking functions associated with an additional practice authorization document.** As such, the proposed changes will result in a cost savings to the Board by eliminating redundant administrative processes. The amended provisions will also offer an equitable licensure process for hearing aid dispensers who become licensed audiologists after January 1, 2010.

ARGUMENTS PRO AND CON: The proposed amendments streamline the terms regarding the elimination of dual licensure for audiologists who sell hearing aids in the state and preserve the prerequisites for passing the hearing aid dispensing competency examination. Therefore, the proposed amendments do not in any way compromise consumer protection but instead, remove unnecessary administrative processes.

PROBABLE SUPPORT AND OPPOSITION: The Board does not anticipate opposition to the proposed amendments.

FISCAL IMPACT: The Board anticipates the amendments will result in a cost-savings for the Board since the amendments will eliminate the need for the Board to issue a separate hearing aid certificate to licensed audiologists

ECONOMIC IMPACT: N/A

FINDINGS FROM OTHER STATES:

The federal government (which is exempt from state licensing provisions), and thirty-five states, including Florida, Illinois and Texas now allow audiologists to dispense hearing aids under an audiology license.

[**Note**: Please send completed forms to the Committee as an electronic copy by e-mail **and** as a hardcopy by mail. Attach additional information or documentation as necessary.]

Agenda Item X.A.

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

As used in this chapter, unless the context otherwise requires:

(a) "Board" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. As used in this chapter or any other provision of law, "Speech-Language Pathology and Audiology Board" shall be deemed to refer to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board or any successor.

(b) "Person" means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e)(1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i)(1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on

Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

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

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

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

~~(m)~~(n) "Medical board" means the Medical Board of California.

~~(n)~~(o) A "hearing screening" performed by a speech-language pathologist means a binary pure tone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

~~(o)~~(p) "Cerumen removal" means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require

the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

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

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

2539.1. (a) (1) On ~~and~~ or after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she has completed an application for a dispensing audiologist ~~certificate~~license, ~~paid~~pays all applicable fees, and ~~passed~~ passes an examination, approved by the board, relating to selling hearing aids.

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

(b) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Chapter 7.5 (commencing with Section 3300) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 3451, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's hearing aid license, the Board shall issue him or her a dispensing audiologyt ~~certificate~~ license pursuant to subdivision (a), paragraph (2). This provision does not prevent an audiologist who also has a hearing aid dispensing license from

maintaining dual or separate licenses if he or she chooses to do so. A licensed audiologist whose license to sell hearing aids, issued pursuant to Chapter 7.5 (commencing with Section 3300), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

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

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

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY & HEARING AID DISPENSERS BOARD
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AGENDA ITEM # XI

MEETING DATE: 3/24-3/25

LICENSE STATISTICAL REPORT

September 1, 2009 through January 31, 2010

TOTAL NUMBER OF LICENSEES

Speech-Language Pathology 10,833
- Inactive 1,148
- CPD Hold 222
- Delinquent 1,823
- Cancelled 4,509

Audiology 1,491
- Inactive 151
- CPD Hold 24
- Delinquent 286
- Cancelled 844

Speech-Language Pathology Assistants..... 1050
- Inactive 37
- CPD Hold 24
- Delinquent 166
- Cancelled 42
- AA/AS 301
- BA/BS 616
- BA/BS EQUIVALENT..... 36
- (97 SLPA's not in database for degree designation)

RPE Temporary License 792
- Speech-Language Pathology 765
- Audiology 27

Registered Aides 232
- Speech-Language Pathology 136
- Audiology 96

LICENSES ISSUED

Speech-Language Pathology..... 307
Audiologist 6
SLP RPE Applicants..... 282
AU RPE Applicants..... 3
Speech-Language Pathology Assistants 136

PENDING APPLICATIONS

Regular / Equivalency Applicants..... 18
Speech-Language Pathology Assistants 24

LETTERS OF GOOD STANDING

126

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
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FY 2009-2010 ENFORCEMENT STATISTICS

SPEECH-LANGAUGE PATHOLOGY & AUDIOLOGY

NOVEMBER 1, 2009 THROUGH JANUARY 31, 2010

COMPLAINT ACTIVITY

Opened 19
Closed 19
Pending 38

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency 0
Incompetence/Negligence 0
Unprofessional Conduct 1
Unlicensed/Unregistered Activity 4
Criminal Charges/Convictions 7
Substance Abuse 0
Fraud 0
Non-Jurisdictional 0
Other 7

Processing Times for Closed Complaints
Months:

0-3 8
4-6 2
7-9 0
10-12 1
12+ 8

INVESTIGATION ACTIVITY

Opened 4
Closed 1
Pending 20

Processing Times for Closed Investigations
Months:

0-3 0
4-6 0
7-12 0
13-24 0
25-36 1

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation 4
Information on File 3
Insufficient Evidence 1
Subject Educated 3
Non-Jurisdictional 0
Compliance Obtained 0
Referral to Government Agency 0
Other 3
Citation 0
Conditional License Issued 1
Referred to AG/DA 5

Total: 20

PROBATION CASES 23
Open 10
Tolled 5
Conditional Licenses 8

CITATIONS ISSUED 0

ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened 4
Closed 2
Pending 11

Processing Times for Closed AG Cases
Years:

0-1 0
1-2 1
2-3 0
3-4 0
4 1

ADMINISTRATIVE FILINGS

Accusations 1
Statement of Issues 0
Petitions for Penalty Relief 0
Petition for Psychiatric Evaluation 0

ADMINISTRATIVE FINAL DECISIONS

Revocation 0
Revocation, Stayed, Probation 2
Revocation, Stayed, Probation, Suspended. 0
License Surrender 0
License Denied 0
Petitions for Penalty Relief Denied 0
Petitions for Penalty Relief Granted 0
Petitions for Penalty Relief Withdrawn 0
Reprimands/Reprovals 0
ISO's Ordered 0
Declined by Attorney General.....0
Conditional License Issued..... . 0

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency 0
Incompetence/Negligence 1
Unprofessional Conduct 0
Unlicensed/Unregistered Activity 0
Criminal Charges/Convictions 0
Fraud 0
Other 1

Hearing Aid Dispenser Examination Statistics

PRACTICAL

	Mar-09	Apr-09	Aug-09	Oct-09
Total # of Candidates	**38**	**55**	**51**	**44**
# Pass/Pass Rate				
Total	**13/34%**	**29/53%**	**27/53%**	**21/48%**
HAD only	8/29%	25/58%	25/58%	12/46%
AU/AuD Program	5/50%	4/33%	0	8/47%
MD	0	0	2/67%	1/100%
# Fail/Fail Rate				
Total	**25/66%**	**26/47%**	**24/47%**	**23/52%**
HAD only	20/71%	18/42%	18/42%	14/54%
AU/AuD Program	5/50%	8/67%	5/100%	9/53%
MD	0	0	1/33%	0

WRITTEN

	2009	*Version 1**	*Version 2**
Total # of Candidates	**187**	*166*	*21*
# Pass/Pass Rate			
Total	**99/53%**	*88/53%*	*11/52%*
HAD only	72/45%		
AU	27/100%		
# Fail/Fail Rate			
Total	**88/47%**	*78/47%*	*10/48%*
HAD only	88/55%		
AU	0		

Two versions of the written examination were adminstered during 2009. Above statistics show breakdown of pass/fail rates for each v

Links

Agenda Item III.B and X.A
http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1501 1550/ab_1535_bill_20091011_chaptered.html

Agenda Item IV-C (At link below, go to retrieve by citation link and then Enter: **Title 21 Part 801 Section 420** and then select **GO.**
http://www.gpoaccess.gov/cfr/retrieve.html

Agenda Item III.A
http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0801-0850/sb_821_bill_20091011_chaptered.html

Agenda Item VII-B
http://www.dca.ca.gov/about_dca/sacc/unistand_12_09.pdf

Agenda Item X.B
http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1101-1150/sb_1111_bill_20100217_introduced.html