

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.3 AND 13.4
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Notice to Consumers

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than Tuesday, October 25, 2022, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2531.06 and 2531.95 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 138, the Board is considering amending sections 1399.129 and 1399.157.1 of title 16 of the California Code of Regulations (CCR).¹

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

This proposed regulation is necessary to begin the process to implement, interpret, and make specific the provisions of BPC section 138 (Chapter 879, Statutes of 1998) and ensure that consumers are aware that individuals engaged in the practices of speech-language pathology, audiology, or hearing aid dispensing are licensed by the State and inform consumers of where they can file a complaint against these licensed individuals.

¹ All CCR references are to Title 16 unless otherwise noted

Existing law, under BPC section 138, mandates that individuals regulated by this Board notify their consumers that they are licensed in the State of California. It also mandates that this Board implement, interpret, and make specific the provisions of BPC Section 138 through the rulemaking process to begin on or before June 30, 1999. This proposed regulation will amend sections 1399.129 and 1399.157.1 to implement, interpret, and make specific the provisions of BPC section 138.

Existing law, under BPC sections 2531.06 and 2531.95, authorizes the Board to adopt, amend, or repeal regulations that may be necessary to execute any provisions of the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. The Board intends to use its authority to amend regulations to implement, interpret, and make specific the provisions of BPC Section 138.

There is no existing federal regulation or statute comparable to this proposed regulation.

Public protection is the highest priority of the Board and it is enhanced when consumers and other interested parties are made aware of the Board's existence at the time and place of service. This proposed regulation will be requiring licensees of the Board to provide notice to consumers of the Board's name and contact information. The following are the proposed changes the Board seeks to make:

**Adopt Section 1399.129 of Article 5 of Division 13.3 of Title 16 of the CCR
(Hearing Aid Dispenser Regulations)**

Section 1399.129 is amended to specify the statement and method of the notice to consumers within the practice of hearing aid dispensing. The title is amended to replace the existing title with a new title so that it matches the content of the regulation section. The content of this section is being added as subsection (a) and (b) with subsection (b)(1), (b)(2), and (b)(3).

Subsection (a) is added to specify the statement that should be used in the notice to consumers within the practice of hearing aid dispensing. Subsection (b) is added to specify three methods for how the notice could be provided to consumers within the practice of hearing aid dispensing as subsection (b)(1), (b)(2), and (b)(3).

**Amend Section 1399.157.1 of Article 8 or Division 13.4 of Title 16 of the CCR
(Speech-Language Pathology and Audiology Regulations)**

Section 1399.157.1 is amended to specify the statement and method of the notice to consumers within the practice of speech-language pathology and audiology. The title is amended to replace the existing title with a new title so that it matches the content of the regulation section. The content of this section is being added as subsection (a), (b), and (c) with subsection (c)(1), (c)(2), and (c)(3).

Subsection (a) is added to specify the statement that should be used in the notice to consumers within the practice of speech-language pathology. Subsection (b) is added to specify the statement that should be used in the notice to consumers within the practice of audiology. Subsection (c) is added to specify three methods for how the notice could be provided to consumers within the practice of speech-language pathology and audiology as subsection (c)(1), (c)(2), and (c)(3).

Anticipated Benefits of Proposal

The Board expects an increase in public awareness, transparency, and accountability as the public becomes more informed about the roles and responsibilities of the Board under which an individual is licensed.

This regulatory proposal will also have the following effects:

This regulatory proposal may affect the health and welfare of California residents. The proposed regulatory action may increase public awareness of the Board's roles and responsibilities to regulate the profession by being easily and publicly available to non-licensed California residents.

These types of benefits are unquantifiable and cannot be easily measured or estimated. Therefore, the Board cannot provide an estimate of the total of statewide benefits that may occur from this regulation over its lifetime.

Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither duplicative, inconsistent, nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board does not anticipate any increase in workload or costs to the state as a result of the proposed regulations.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact: The Board has made the initial determination that the proposed regulatory action will have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS:

Impact on Jobs / Businesses

The Board has determined that this regulatory proposal will not have any significant impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. This is because the proposed regulatory action is related to educating and informing the public about the roles and responsibilities of the Board and not enhancing industry growth within the industries the Board regulates.

The proposed regulations will benefit the health and welfare of California residents by increasing consumer awareness of the existence of the Board and how to contact the Board by phone or via the Board's website. Increased consumer awareness about the Board will facilitate consumers checking the license status of licensees, and if necessary, filing a complaint with the Board. The proposed regulations are not expected to affect worker safety or the state's environment.

Furthermore, the Board's authorization is over licensees and not on all businesses within the industries the Board regulates. The Board only maintains data on businesses where hearing aid dispensers and dispensing audiologists are authorized to sell hearing aids in accordance with BPC sections 2538.33 and 2538.34. The Board does not maintain data relating to the number of businesses for other license types or the types of business (e.g., private, nonprofit, public, or small business) in which licensees are employed. As a result, the Board cannot provide any estimates for the total number or type of businesses that may be impacted.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses. This is because the proposed regulatory action is related to educating and informing the

public about the roles and responsibilities of the Board and not enhancing industry growth within the industries the Board regulates.

Furthermore, the Board's authorization is over licensees and not over all businesses within the industries that employ licensees the Board regulates. The Board only maintains data on business where hearing aid dispensers and dispensing audiologists are authorized to sell hearing aids in accordance with BPC sections 2538.33 and 2538.34. The Board does not maintain data relating to the number of businesses for other license types or the types of business (e.g., private, nonprofit, public, or small business) in which licensees are employed. As a result, the Board cannot provide any estimates for the total number or types of businesses that may be impacted.

Cost Impact on Representative Private Person or Business

The Board is aware of costs that businesses or individuals may incur to comply with this regulation over its lifetime. The Board expects the costs for printing and materials to be minor and absorbable within normal business operations. As a result, no additional costs are anticipated.

The Board is not aware of any other economic costs that may occur.

Significant Effect on Housing Costs: None

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Do not seek a regulatory change.

The Board is directed by statute to develop these regulations. Failure to adopt the proposed regulatory action prevents consumers from accessing the information that the individual they are obtaining services from is licensed by the State. This would result in some consumers continuing to be unaware that they can contact the Board to check the status of their practitioner's license, disciplinary history, or file a complaint. Some consumers may also continue to be unaware that this includes any assistants, aides, trainees, or RPE licensees from which the

consumer may receive services. Given the Board relies upon consumer complaints for enforcement actions, failure to increase consumer awareness of the Board's roles and responsibilities reduces the Board's ability to meet its consumer protection mandate.

Any interested person may submit comments to the Board in writing relevant to the above determinations to the contact persons named in this notice at 1601 Response Road, Suite 260 Sacramento, CA 95815.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons , proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1601 Response Road, Suite 260 Sacramento, CA 95815.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described herein or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Maria Liranzo; Legislation, Regulations, and Budget Analyst
Address: Speech-Language Pathology and Audiology
and Hearing Aid Dispensers Board
1601 Response Road, Suite 260
Sacramento, CA 95815
Telephone No.: (916) 905-5441
E-Mail Address: SpeechandHearingRegulations@dca.ca.gov

The backup contact person is:

Name: Cherise Burns, Assistant Executive Officer
Address: Speech-Language Pathology and Audiology
and Hearing Aid Dispensers Board
1601 Response Road, Suite 260
Sacramento, CA 95815
Telephone No.: (916) 905-5454
E-Mail Address: SpeechandHearingRegulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at https://www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml