

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD
FINAL STATEMENT OF REASONS**

Request for Early Effective Date: The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) requests that this regulatory proposal become effective on July 1, 2021 or upon filing, whichever is later. Due to Fiscal Year 2021-22 state budget changes and new bargaining agreements with state employee unions, the Board's fund condition will become insolvent earlier than previously anticipated without immediate implementation of this regulatory proposal. The early effective date will ensure the Board is able to continue to meet its consumer protection mandate.

Hearing Date: No public hearing was requested nor held.

Subject Matter of Proposed Regulations: Speech–Language Pathology and Audiology Fees.

Sections Affected: Section 1399.157, 1399.170.1, and 1399.170.14 of Title 16 of the California Code of Regulations (16 CCR)

Updated Information

The Initial Statement of Reasons is included in the rulemaking file. The information contained therein is updated as follows:

The 45-day comment period began on August 7, 2020 and was initially noticed to end on September 22, 2020. When the Board discovered some stakeholders did not receive timely notice, the public comment period was extended to end on September 25, 2020. During the August 7, 2020 to September 25, 2020 public comment period, the Board received four public comment letters. On November 20, 2020 the Board held a teleconference meeting to discuss the four public comment letters and voted to reject all four public comments received for the reasons described in the Objections or Recommendations/Responses section below.

The Board also modified the proposed regulatory text as follows:

16 CCR section 1399.157:

Remove Business and Professions Code sections 2538.54 and 2538.57 from the referenced citations because these statutes relate to Hearing Aid Dispensers and this regulatory proposal does not adopt new fees for hearing aid dispensing.

16 CCR section 1399.170.13:

Rename the title of this section to “Application” since the regulatory text regarding speech-language pathology assistant fees is removed from this section. The application fee for speech-language pathology assistants is moved to section 1399.157 as part of this regulatory proposal.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

The Board determined that the proposed regulatory action will affect several of the Board’s licensees by increasing application and renewal fees for various license categories regulated by the Board. The Board has determined that this regulatory proposal will not impact small businesses in the State of California because the regulatory proposal will increase fees for individual licensees, which only impacts individuals, not businesses.

Economic Impact

This proposal increases the application and renewal fees and the charge for a license status and history certification letter for various licenses regulated by the Board and imposes new fees for delinquency, a fee for renewing an expired license or registration, and a duplicate wall certificate fee. There will be a cost impact on a representative private person or business associated with the increased application and renewal fees and other miscellaneous fees for speech-language pathologists, audiologists, and speech-language pathology assistants. The Board anticipates the proposed fees will increase annual industry costs by approximately \$495,305 per year.

Anticipated Benefits of this Proposal

This regulatory proposal would benefit the health and welfare of California residents by allowing the Board to maintain current operations and provide for a modest reserve for economic uncertainties. Without sufficient funding levels, the Board will not be able to carry out its mandate to protect the health, safety, and welfare of California consumers.

Consideration of Alternatives

The Board has determined that no reasonable alternative to the regulatory proposal it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the regulatory proposal, or would be more cost effective to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The Board considered a regulatory proposal to increase all the speech and audiology fees to the statutory maximums but made a policy decision that the application and renewal fees for

speech-language pathology assistants should be lower than speech-language pathologists since speech-language pathology assistants are generally in a lower salary range than speech-language pathologists.

The Board could also choose to keep application and licensing fees at current levels. However, this would create a significant deficit for the Board and would prevent it from fulfilling its consumer protection mandate, as the Board would no longer be able to perform many of the services mandated by the law. Therefore, this was not a viable option.

Fiscal Impact

The Board indicates because the fees are already being assessed and the proposed regulations only increase the fee amount levels, no additional workload or costs are anticipated.

The Board estimates the proposed regulations will increase revenues by approximately \$495,305 per year, eliminate any structural imbalance, and begin to build a prudent fund balance reserve.

Objections or Recommendations/Responses

Written Comment: An email was received from Rachel Tapper Zijlstra, Sound Therapies, Inc., a Speech-Language Pathology Group. Ms. Zijlstra indicated general support for fee increases for licensing. Ms. Zijlstra also expressed concern that Required Professional Experience (RPE) processing times are too long, stating the 6-8-week window is too long for new graduates to wait before they can start working. Ms. Zijlstra suggested that new graduates be allowed to apply before they have a supervisor identified, with the expectation that they report their supervisor after they get a job.

Response to Comment: The Board appreciated the support expressed for the proposed fee increase. The Board voted to reject the request that RPE processing times be shortened as a part of this rulemaking. RPE processing times are not germane to this rulemaking package and would need to be addressed in a separate regulatory proposal. The proposed fee increase is required to ensure the Board has sufficient resources to maintain current operations.

Written Comment: An email was received from Carol Fenwick. Ms. Fenwick opposed the proposed fee increase and stated the proposed fee increase would significantly impact small businesses. Ms. Fenwick stated that individual licensees and owners of private practices would be impacted and that many speech-language pathologists and audiologists in schools or private practice do not make more than \$60 per hour, or even less per hour if providing teletherapy in response to the COVID-19 crisis. Ms. Fenwick asserted the income of many small businesses is a third of what was earned in 2019. Ms. Fenwick expressed concern that the fee increase would discourage practitioners from pursuing or renewing their state licenses, with serious repercussions for the understaffed profession.

Response to Comment: The Board voted to reject this comment as current licensing fees create a structural imbalance and the Board's reserve fund is quickly depleting. The existing

fees do not adequately support the Board's ability to regulate the professions it is tasked with regulating. The Board noted that the statutory minimum and maximums are set in statute (Business and Professions Code section 2534.2). The fees have not increased since 2002. In 2015, the DCA Budget office recommended the Board adopt a fee increase. During the past five years, the Board's licensing population has increased by over 30 percent, resulting in an increased workload along with the need for additional staff. In March of 2019, the DCA Budget Office completed another analysis of the Board's fund condition and concluded that, without a fee increase, the fund would be insolvent by Fiscal Year 2022-2023. The proposed fee increase will eliminate the structural imbalance and begin restoring the Board's reserve fund.

Written Comment: An email was received from Corrine Li, Ph.D., CCC-SLP. Ms. Li expressed concern regarding the increase in licensing renewal fees for speech-language pathologists and audiologists. Ms. Li urged the Board to consider the impact of the fee increase given the current health and economic crisis in the United States. Ms. Li stated the fee increase may deter individuals from entering the field or transferring from another state and that this is a significant concern given the shortage of speech-language pathologists in California. Ms. Li recommended the increase be distributed over several renewal cycles and measures be taken to address the needs of licensees in different financial situations.

Response to Comment: The Board voted to reject this comment, stating that the Board does not take fee increases lightly and has not increased fees since 2002, noting that the Board waited as long as possible to do so. It is regrettable there is currently a health and economic crisis, but the Board must increase the fees now to ensure the future financial viability of the Board. Finally, the Board is a self-funded agency, which means the Board's revenue is obtained from its licensing fees rather than the State's general fund (i.e. tax revenue). There are no programs available to supplement the Board's revenue if fees are waived for some licensees.

Written Comment: An email was received from Jerri Kesler, M.S., CCC-SLP. Ms. Kesler indicated the increase of the speech-language pathology renewal and license fees from \$60 to \$150 is not desired during the economic stress from COVID-19. Ms. Kesler travels among states working as a speech-language pathologist and says the fee increase is a burden for those working in multiple states. Ms. Kesler indicated a fee increase that granted licensure in California, Oregon, and Washington would be justified. Ms. Kesler also suggested increasing only the initial license fee and leaving the renewal fee low.

Response to Comment: The Board rejected this comment. The Board has not previously considered multi-state licensing compacts, which would be difficult to create given that each state has its own laws and regulations regarding the practice of speech-language pathology and audiology and most compact arrangements look to remove some disciplinary authority from State licensing boards as part of their compact. The Board noted that it must raise fees to ensure it can meet its consumer protection mandate and restore its reserve fund. Although it is unfortunate the country is facing economic stress due to COVID-19, the Board has already delayed raising fees as long as possible. Further delays can have a detrimental impact to the Board's operations.

Finding of Necessity

There are no reports required by this regulatory proposal.

Incorporation by Reference

There are no documents incorporated by reference.