

**TITLE 16. Speech-Language Pathology and Audiology
And Hearing Aid Dispensers Board
DEPARTMENT OF CONSUMER AFFAIRS**

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations

Notice to Consumers

Sections Affected

Section 1399.129 of Article 5 of Division 13.3 and section 1399.157.1 of Article 8 of Division 13.4 of Title 16 of the California Code of Regulations (CCR).

Updated Information

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

The 45-day public comment period began on September 9, 2022, and ended on October 25, 2022. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) did not hold a public hearing for this proposed regulatory action nor was one requested from any interested person or their authorized representative.

The Board received twelve (12) written comments during the initial 45-day comment period.

- Three (3) in support,
- Six (6) expressed concerns with the proposed regulatory changes,
- Two (2) in opposition, and
- One (1) had no comments.

The Board approved modifications to the proposed regulatory text on October 28, 2022. The Board modified the proposed regulatory text as follows:

- *Amend sections 1399.129(b)(1) and 1399.157.1(c)(1) to change the font size from 48- to 36-point type.* The Board determined that the 48-point type in Arial font is too large to fit all the required information on a letter size paper (8.5 x 11 inches). Requiring 36-point type in Arial font allows licensees to use a paper size that is commonly used in the United States while maintaining a font size that is large enough for the consumer to read the notice with ease from locations such as a wall or receptionist desk.

On November 18, 2022, the Board issued a 15-day notice of availability of the modified

text, and the public comment period closed on December 5, 2022. The Board received eight (8) written comments concerning the modifications to the proposed text.

The Administrative Procedure Act (APA) does not require the Board to review or respond to positive written comments in support of this regulatory action during the final rulemaking process. However, the Board is required to review or respond to written comments that object or makes a recommendation to the regulatory action or the procedures followed by the Board in proposing the regulatory action.

During the December 13, 2022, Board meeting, the Board considered the written comments and determined that no changes to the proposed regulatory text were necessary to accommodate the comments (discussed at the end).

Local Mandate

This regulatory action does not impose a mandate on local agencies or school districts.

Small Business Impact

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.

Fiscal Impact

The Board does not anticipate any increase in workload or costs to the state as a result of the proposed regulations.

Economic Impact

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.

Anticipated Benefits of this Proposal

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.

Consideration of Alternatives

The Board determined that there are no reasonable alternatives to the regulation or that has otherwise been identified and brought to its attention (discussed below) that would be more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome 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.

Summary of Comments and Board Response

Summary: Laura Hanaford commented to express concerns for licensees in the public-school setting and inquired about the most suitable method of notice for licensees in public school setting.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. The Board does not find it necessary to specify suitable method for any particular work settings as it does not want to limit licensees ability to make such determination for themselves. Providing three different methods to choose from gives licensees the flexibility to determine the best method according to their work setting and how they interact with their patients/clients.

Summary: Ruby Sinha commented to express concerns with the number of caseloads in public school setting.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because the comment was not germane to this rulemaking package. The Board does not have jurisdiction regarding caseloads in public school settings.

Summary: Jesse Paulin commented twice to express concerns with public access to licensees’ personal contact information and the required number of “live” continuing education courses.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding personal information because the comment did not provide a recommendation. The Board is requiring licensees to provide their patients/clients with the Board’s name, telephone number, and website address; and not licensee information that isn’t presently made available to the public such as their email address, home address, or personal phone number.

The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding continuing education because the comment was not germane to this rulemaking package. Continuing education requirements are covered in regulations that are not the subject of this proposed action.

Summary: Jodie Victor inquired for the most suitable method of notice for licensees in public school setting.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided. The Board does not find it necessary to specify suitable methods for any particular work settings as it does not want to limit licensees' ability to make such determinations for themselves. Providing three different methods to choose from gives licensees the flexibility to determine the best method for their work setting and how they interact with their patients/clients.

Summary: Ariella Ives commented in opposition and expressed concern about consumers being able to use the internet to find the Board's information and an increase in cost to licensees.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. Business and Professions Code (BPC) section 138 require boards to initiate the process of adopting regulations to require licensees to "provide notice to their clients or customers that the practitioner is licensed by this state." Furthermore, the Board determined businesses would incur no cost to comply with this regulation because the Board anticipates licensees will be able to print and provide the notice in a manner that can be covered within the cost of normal business operations.

Summary: Rosalio and Adriana Perez commented in opposition and expressed concern about an increase in cost to licensees.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate these comments because no recommendation was provided. The Board determined businesses would incur no cost to comply with this regulation as the Board anticipates licensees will print out and provide the notice within the costs of normal business operations.

Summary: Melanie Lopez commented to express not having any comments.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided.

Summary: Dana Alkhandak commented to express concerns with audiologists being held to a more stringent standard than any other medical professionals.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. BPC section 138 requires boards to initiate the process of adopting regulations to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” This will be required for other professions such as dentistry, medicine, nursing, and psychology. As of November 16, 2022, the Medical Board, Dental Board, Board of Psychology, Board of Occupational Therapy, Physical Therapy Board, and Board of Optometry are some of the boards that have either a statutory or regulatory requirement similar to this proposed regulation. The Board anticipates other boards will adopt regulatory changes similar to this proposed rulemaking in the future.

Summary: Linda Oliver commented on the negative impact it will have on professional image and esthetics, and consumer confidence in the care and in the professional serving them. Linda Oliver noted this isn’t required in optometry, dentist, pharmacist, or doctor’s offices.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. BPC section 138 requires boards to initiate the process of adopting regulation to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” This will be required for other professions such as dentistry, medicine, nursing, and psychology. As of November 16, 2022, the Medical Board, Dental Board, Board of Psychology, Board of Occupational Therapy, Physical Therapy Board, and Board of Optometry are some of the boards that have either a statutory or regulatory requirement similar to this proposed regulatory. The Board anticipates other boards will adopt regulatory changes similar to this proposed regulatory in the future.

Summary: Teresa Koppang commented to express concerns regarding additional responsibility being placed on licensees and inquired why is this required.

Board Response: The Board determined that while the comment was germane to the

proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. BPC section 138 requires boards to initiate the process of adopting regulation to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” Furthermore, as stated in the ISOR, the Board determined that the proposed regulatory action will not have a significant adverse economic impact on businesses or jobs.

Summary: Sarah Wyse commented to express concerns with public access to licensees’ contact information.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. The Board is requiring licensees to provide their patients/clients with the Board’s name, telephone number, and website address; and not licensees’ personal information that isn’t already available to the public such as their email address, home address, or personal phone number.

Summary: Linda Gunn inquired if the notice includes personal contact information.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided. The Board is requiring licensees to provide their patients/clients with the Board’s name, telephone number, and website address; and not licensees’ personal information that isn’t already available to the public such as their email address, home address, or personal phone number.

Summary: Miriam Kessler commented to express gratitude for the proposed regulatory action.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided.

Summary: Lori Garabedian commented on this being unnecessary and consumers being able to use the internet to find this information.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. BPC section 138 requires boards to initiate the process of adopting regulation to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.”

Summary: Aieshea Banks commented on the proposed changes to SLPA supervision.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because the comment was not germane to this rulemaking package. SLPA supervision is regulated in regulations that are not the subject of this proposed rulemaking .

Summary: Donna Eskwitt commented in opposition and expressed concern about licensees being required to display their license and consumers being able to find the Board’s information without the licensee, an increase in workload to the Board due to an increase in the number of complaints, and an increase in costs to licensees to create notices or revise documents to include notice. Donna Eskwitt noted this isn’t required by the Board of Barbering or Cosmetology or the Medical Board and suggested that it should be required for sellers of over-the-counter (OTC) hearing aids

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. BPC section 138 requires boards to initiate the process of adopting regulations to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” This will be required for other professions such as dentistry, medicine, nursing, and psychology. As of November 16, 2022, the Medical Board, Dental Board, Board of Psychology, Board of Occupational Therapy, Physical Therapy Board, and Board of Optometry are some of the boards that have either a statutory or regulatory requirement similar to this proposed regulation. The Board anticipates other boards will adopt regulatory changes similar to this proposed rulemaking in the future. In addition, the Board determined that there would be no increase in workload or costs and businesses would not incur cost to comply with this regulation because the Board anticipates licensees will print out and provide the notice within the costs of normal business operations.

The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding OTC hearing aids sellers because the comment was not germane to this rulemaking package. The Board is unable to require sellers of OTC hearing aids to post this notice because the FDA does not permit state and local government laws to interfere with the sale of OTC hearing aids from those not licensed with this Board and OTC hearing aids sellers don’t need to be licensed if the only hearing aids sold are OTC.