

MEMORANDUM

DATE	May 13, 2025
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Cherise Burns, Executive Officer
SUBJECT	Agenda Item 11: Discussion and Possible Action Regarding Potential Options for Obtaining Authority for and Implementing a Retired License Status for Board Licensees

Background

For a considerable number of years, Board licensees have requested to be placed in a Retired Status instead of having to have their license go to Expired for a specified number of years before it goes into a Cancelled status. During the continuing professional development (CPD) audits of Board licensees, staff have come across a handful of licensees that have professionally retired and should have been in an Inactive status, but instead kept renewing Active as they did not want to be Expired and were either unaware of the Inactive status or made a mistake on their renewal form.

This reignited Board staff's research into the creation of a Retired license status and whether this issue might merit review for potential statutory amendments as part of the Board's Sunset Review.

Due to legislation enacted in 2017, the Business and Profession Code (BPC) section 464 authorizes boards within the Department of Consumer Affairs to establish through regulation the retired license status as shown below:

BPC section 464

(a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

(2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

- (3) The holder of a retired license shall not be required to renew that license.*
- (4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.*
- (5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:*
- (A) Pay a fee established by statute or regulation.*
- (B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.*
- (C) Comply with the fingerprint submission requirements established by regulation.*
- (D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.*
- (E) Complete any other requirements as specified by the board by regulation.*
- (c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.*
- (d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.*

With the above statute, the Board could use the general statutory authority and promulgate regulations to create the Retired license status at the Board, but Board staff has three concerns with using BPC section 464 as it is written.

First, BPC section 464 would authorize any individual with a license in Active or Inactive status that was not placed in Inactive status for disciplinary reasons to apply for the Retired license status. Board staff find this to be problematic as it does not bar licensees that are currently on a restricted license (license is subject to a Board imposed disciplinary order such as probation), licensees that have not abated any issued Board citation and fine, or licensees that are currently under investigation for an active complaint or conviction from applying for the Retired license status.

Second, BPC section 464 would authorize any individual with a license in Retired status to reinstate their license regardless of the amount of time in Retired status, thus potentially allowing individuals who have been out of practice and not maintaining the required CPD for many years to simply take one renewal cycle's worth of the CPD to reactivate.

For context, the Board's Practice Act doesn't even allow reactivation of an expired license after a specified number of years based on the license type and thereafter requires the individual to reapply for licensure and meet the current licensure requirements and minimum standards of competency.

BPC Section 2535.4

A person who fails to renew their license within the five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if they meet all of the following requirements:

(a) Have not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Take and pass the examination or examinations, if any, that would be required of them if an initial application for licensure was being made, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, they are qualified to practice as a speech-language pathologist or audiologist, as the case may be.

(c) Pays all of the fees that would be required if an initial application for licensure was being made. In addition, the board may charge the applicant a fee to cover the actual costs of any examination that it may administer.

BPC section 2538.56.

A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:

(a) They have not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) They pay all of the fees that would be required if they were applying for a license for the first time.

(c) They take and pass the examination that would be required if they were applying for a license for the first time, or otherwise establish to the satisfaction of the board that they are qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

Third, BPC section 464 does not place a cap on the number of times a licensee can reinstate from Retired to Active status license. The Retired license status is not meant to be renewed and is therefore not meant to be a transitory status that a licensee moves in and out of with frequency. With BPC section 464 as written, it could create the potential for abusing the Retired license status as a de facto inactive status while allowing a licensee to avoid paying the higher Inactive license fee.

The following are discussion questions to consider which will help Board staff draft either the statutory or regulatory text for the Board to consider.

Discussion Questions

1. Should licensees who have their license under current administrative enforcement action or formal disciplinary action be allowed to place their license into the Retired license status?
2. Should licensees who are currently under investigation for a complaint or conviction be allowed to place their license into the Retired license status?
3. Should reactivation of the Retired license to Active status be allowed after any length of time?
 - a. Should it be restricted based on the current Board Practice Act standards for reactivation in BPC sections 2535.4 and 2538.56?
 - b. Should it be based on a separate amount of time, and what would be the consumer protection justification for that extended timeframe?
4. Should there be a cap on the number of times a licensee can go through reactivation of the Retired license to Active status before having to reapply for licensure and meet all current minimum requirements for the license type?

Action Requested

Staff recommend the Board review and discuss the materials provided. The Board may wish to delegate to staff the drafting legislative changes to seek statutory authority to create our own Retired license status criteria to be included as part of the Board's Sunset review, or the Board may wish to delegate to staff that the regulatory process be started to create the Retired license status under the general BPC section 464 authority.