

**SPEECH-LANGUAGE PATHOLGOY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD**

**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)~~ twelve (12) 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.~~

(1) Not more than three (3) hours of continuing education may be credited in any of the following related to hearing aids: related, or indirect client care courses as provided in Section 1399.140.1 ethics (including the ethics of advertising and marketing) or business practices.

(2) Not more than three (3) hours of the required continuing education may be credited for self-study or correspondence-type coursework, 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 Board 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 board 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 board.

~~(d)~~ (e) For a license that expires on or before December 31, 2010, 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.

Section 1399.140.1 - Continuing Education Course Content

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

(1) Direct client care courses cover current practices in the fitting of hearing aids.

(2) Indirect patient/client care courses cover pragmatic aspects of hearing aid dispensing (e.g., legal or ethical issues (including the ethics of advertising and marketing, consultation, record-keeping, office management, managed care issues, business practices).

(3) Courses that are related to the discipline of hearing aid dispensing may cover general health condition or educational course offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, service delivery models, interdisciplinary case management issues, or medical pathologies related to neurological disorders that also result in hearing difficulties.

1399.141. Approval of Continuing Education Providers.

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

(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, 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 Board 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 board.

(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 board no later than December 31 of each calendar year~~ for a period of four (4) years, and shall provide such record to the board

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 board at its Sacramento office ~~at least 45 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 Board 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 Board 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 Board the denial of approval of any course. Such appeal shall be filed with the Board 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 board on a timely basis.

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

(f) Each provider shall submit to the board 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 board 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 board.

(b) ~~Fraudently~~ 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. ~~(e)~~ (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.

Working document

PROPOSAL TO CLARIFY RETURNS/REFUNDS/AMENDMENT TO TRIAL PERIOD AS THEY PERTAIN TO THE SONG-BEVERLY CONSUMER WARRANTY ACT ON HEARING AID PURCHASE AGREEMENT

Comment [RG1]:

“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 canceled 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.**”
*****highlighted areas need to be amended**

*note for clarification-“return to buyer all payments and ANY ASSISTIVE DEVICE (why is seller returning “assistive device” to buyer?)

Summary of other states’ return/refund policies:

FLORIDA:

- suspend trial period 1 day per 24 hour period hearing aid is not in purchaser’s possession
- dispenser may retain charges for earmolds, services provided, cancellation fee.

OREGON:

- purchase price is refund minus “normal wear and tear”
- dispenser may retain a portion of purchase price as specified by rule under Oregon Health Licensing Agency

ILLINOIS:

- if hearing aid is returned for adjustment or repair, the refund period will be extended, affording the buyer the remainder of the refund period.

Issues:

- NEED TO DEFINE COMPLETION OF FITTING
- DEFINE SPECIFIC NEEDS AS STATED IN CALIFORNIA CIVIL CODE SECTION 1793.02 OF SBCWA.
- DEFINE ADJUSTMENT
- NEED FOR DOCUMENTATION OF ADJUSTMENTS, REPLACEMENTS

Working document

Specify charges for non-refundable fees incurred on dispenser: earmolds, shipping, restocking fee if any. Allow for documentation of what fees are not refundable at the time the hearing aids are delivered.

CHALLENGES FOR DISPENSER

- loss of revenue for returned earmolds, non-refundable shipping/handling fees, restocking fees
- determining maximum number of hearing aids patient is permitted to try and timeframe within which this may occur
- determining maximum timeframe within which patient may modify original aid or return original aid and start new trial period. (90 days, 6 months, one year???) ~needs to be specified on “back page” of purchase agreement
- consumer who orders products and cancels fitting (by phone) PRIOR to agreed upon fitting date
- consumer who decides not to take hearing aids DURING the initial fitting and orientation
- California Civil Code Section 1795.6 allows for tolling of the 30 days allowing 30 day trial to be stopped and started. (seems open ended)- What happens when this period exceeds product return period as determined by HA manufacturer?

GENERAL QUERY:

what are other dispensers’ practices with regard to deposit/down payment/pre-purchase documentation?

CHALLENGES FOR CONSUMER

- some consumers want an unlimited amount of products for trial
- trial period should not be left open ended by dispenser when returning one product and trying another
- consumer needs to understand that 30 day trial period does not start again after each adjustment or repair
- keeping track of documentation (can be addressed with “backpage” solution)

GENERAL QUERY:

ACTUAL REPAIRS DURING THE ORIGINAL WARRANTY PERIOD ARE NOT RELATED TO OR AFFECTED BY ISSUES PERTAINING TO TRIAL PERIOD. CA BUREAU OF ELECTRONIC AND APPLIANCE REPAIR STIPULATES WARRANTY PERIOD WILL BE EXTENDED FOR NUMBER OF WHOLE DAYS THE PRODUCT HAS BEEN OUTSIDE OF THE BUYER’S HANDS. Is this an issue we need to discuss????? Have any dispenser’s been challenged about this?

Working document

PROPOSED "BACKPAGE" WORKING DOCUMENT FOR CONSUMER PURCHASE AGREEMENT TO BE KEPT IN PATIENT CHART AND UPDATED DURING THE COURSE OF TRIAL PERIOD. TO BE INITIALED BY PURCHASER AFTER EACH FOLLOW-UP APPOINTMENT DURING TRIAL PERIOD.

PATIENT NAME:

ORIGINAL DATE OF SALE:

DATE OF ORIGINAL TRIAL PERIOD END DATE:

MAXIMUM EXTENSION DATE OR NUMBER OF PRODUCTS PERMITTED FOR TRIAL AS DETERMINED BY DISPENSER (does CA law allow for unlimited number?)

NON-REFUNDABLE ITEMS:

Earmold(s) (amount not to exceed \$35 per mold)

Manufacturer shipping/handling fees (not to exceed \$18.00 total)

Manufacturer restocking fee (not to exceed \$100 per aid)

After sale added options:

(canal lock/t-coil/chargeable shell color change)

Date of first follow-up appointment: _____

Dates of subsequent appointments within trial period:

Final follow-up appointment _____ (*patient has decided to keep product/s*)

Date aid sent for remake/repair: _____

Date earmold(s) sent for remake: _____

Date aid/earmold picked up by patient after remake/repair _____

(*aid/earmold must be picked up within ...# days after patient is notified*)

New trial period end date: _____ (=orig TP end date + out time)

.....
(IN THE EVENT A HEARING AID IS EXCHANGED FOR A DIFFERENT MODEL, NEW PURCHASE AGREEMENT WILL BE GENERATED WITH UPDATED PRODUCT/PRICING INFORMATION ALONG WITH FITTING DATE. PATIENT WILL PAY OR BE REIMBURSED FOR DIFFERENCE -when?)

Date aid exchanged for different model _____

New trial period end date: _____

Proposed requirements for contracts for hearing aid dispensers to replace Song Beverly requirements

The proposal is suggested so that both the hearing aid dispenser and the consumer will have a clear understanding of each of their rights and responsibilities. At present the lack of clarity of Song Beverly is a detriment to both the consumer and the professional. In general it should serve both parties to have clear language on the contract. The proposal is that once the consumer has had the hearing aid in their possession for 30 days it is deemed to be theirs and not returnable(unless the dispenser decides to do so of their own choosing). It would seem that this approach is much clearer if spelled out in that way and not try to define completion of fitting or trying to decide if it was fit for their particular needs. These two terms have too many interpretations and have led to many problems for both parties as well as the Board in the past.

Definition of Fitting – the date when the customer first takes possession of the hearing aids.

Definition of fitting period – Once the customer has had possession of the hearing aids for 30 days. If the hearing aid has to go back to the manufacturer for any reason, the time the aids are out of the customers' possession will not count towards the 30 days. As an example, if the customer has the hearing aid for 7 days and then it goes back to the manufacturer; the day the customer receives it back will be eighth day of possession. The customer will have a responsibility to pick up the hearing aid within 7 days of being notified of its return from the factory. Should they not pick it up within the prescribed time period, any time after the 7 days will count towards the 30 days of possession. This must all be clearly described in the documentation referred to in the next section. There will need to be a remedy for the possibility that the dispenser refuses to see the customer in a timely manner.

Documentation of non-possession during fitting period – Dispenser will give customer written notice that the hearing aid is not in their possession. Dispenser will be required to have customer sign for giving up hearing aid when it goes to manufacturer for any work and then sign when it is back in the customers' possession. Both events (giving up and receiving back) shall be dated. The sign out sign in rule will only apply during the defined 30 day fitting period.

Dispensing fee – In the event that the hearing aid is returned for any reason, the dispenser may charge up to \$200 per hearing aid for services rendered. This shall be clearly stated on the contract.

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
Hawthorn Suites
321 Bercut Drive
Sacramento, CA 95814
December 11, 1998
MINUTES**

Members Present

David Alessi, M.D.
Rebecca Leonard, Ph.D, Chairperson
Mary Ruth Pinson
Donald E. Regan, Ph.D.
Stephen Sinclair, Ph.D.

Members Absent

Li-Rong (Lilly) Cheng, Ph.D
Cydney M. Fox, M.A.

Staff Present

Marilee Monagan, Executive Officer
LaVonne Powell, Board Counsel
Annemarie Del Mugnaio, Board Analyst
Lori Garrett, Board Staff
Celeste Mandolph, Board Staff

Guests Present

Sharon Baker, Department of Consumer Affairs (DCA), Sacramento
Roberta Chinn, DCA, Sacramento
Gary Cooper, Hearing Health Care Providers, Sacramento
Gregory Hackett, Hearing Health Care Providers, Santa Rosa
Norman Hertz, DCA, Sacramento
John Hessberg, General Counsel, International Hearing Society, Detroit, MI
Barbara Koski, Speech-Language Pathologist, Elk Grove
Cynthia Merritt, California Academy of Audiology, Sacramento
Bob Powell, California Speech-Language Hearing Association, Sacramento
Rick Pratt, California School Employees Association, Sacramento
Anita Scuri, Legal Counsel, Hearing Aid Dispensers Examining Committee/
Medical Board of California, DCA, Sacramento
Diane Tinchler, Executive Officer, Hearing Aid Dispensers Examining Committee,
DCA, Sacramento

Agenda Item 1 Call to Order

Chairperson Leonard called the meeting to order at 9:30 a.m.

Agenda Item 2 Introductions

Introductions were made by all in attendance.

Agenda Item 3 Approval of September 25, 1998 Board Meeting Minutes

It was M/S/C (Pinson/Sinclair) to approve the minutes as submitted.

Agenda Item 4 Chairperson's Report

Agenda Item 4A Endoscopy Legislation

Chairperson Leonard provided an update on the status of the endoscopy legislative proposal. She has had two meetings with representatives of the California Medical Association (CMA). Modifications are presently being made to the draft proposal. Dr. Alessi will draft a letter to Dr. Willard Fee and Scott Syphax at CMA regarding the proposal. Mr. Powell suggested proceeding with the legislation in the form of a spot bill, pending the Board's discussions with CMA officials.

Agenda Item 4B Conference Reports

Ms. Pinson provided an update on the Citizen Advocacy Center conference she attended on behalf of the Board. Among the issues discussed at the conference were the need for national standards, scope of practice, and continuing education. A panel discussion regarding the latest report from the Pew Commission on Reforming Health Professional Regulation was very informative.

Chairperson Leonard attended the annual conference of the American Speech-Language-Hearing Association (ASHA) in San Antonio. Hot topics at the conference included "fast forward," a therapeutic approach to children who have certain kinds of language problems by manipulating the auditory signals, and a presentation by a physical therapist on physical therapy's experience with paraprofessionals or support personnel.

Ms. Monagan and Ms. Powell reported on the annual conference of the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology. Issues addressed at the conference included the purpose of licensure, continuing education, inclusion of a code of ethics in state licensure laws, enforcement and disciplinary processes, increased public member participation, and increased training for board members. Sessions were held on telepractice, support personnel, and hot topics in licensure. Ms. Monagan participated with board administrators from the states of New York, Louisiana, and South Carolina in a dialogue with conference attendees. She was asked to discuss the role of a board administrator. California has been asked to host the conference in the year 2000. Ms. Powell talked about the discussion held on

speech assistants and how valuable the conference was in terms of sharing information and issues of mutual concern.

Agenda Item 4C Report from Ad Hoc Committee on RPE Regulations

The Board heard from staff members about the need to clarify requests for extension of the Required Professional Experience (RPE) period. In answer to a board member's question on repeat examination takers, Ms. Powell stated that legislation is required to limit the number of times an individual can take the national examination. **Dr. Sinclair has prepared a working paper on the RPE extension issue, which will be placed on the agenda for the next meeting.**

Chairperson Leonard reported that one of the discussion items at the school training program directors meeting she and Ms. Monagan attended was the lack of uniformity in the practices used by the training program directors to monitor and record student clock hours and supervision hours for SLPAB, the Commission on Teacher Credentialing, and ASHA. Mr. Powell stated that legislation may be proposed that would require the three entities to adhere to a common standard. Chairperson Leonard suggested that SLPAB might be willing to revisit this issue with CSHA.

Agenda Item 5 Department of Consumer Affairs Report

In the absence of staff from the Board Relations office, Ms. Monagan reported that the two vacancies on the Board should be filled before Governor Wilson leaves office.

Agenda Item 6 Executive Officer's Report

Ms. Fox provided a list of manufacturing companies that may employ audiologists and drafted a letter to be sent, informing them that audiologists who work for those companies as audiologists must be licensed. Ms. Monagan and Ms. Powell will review the documents and take necessary action. Ms. Powell cautioned the Board that only audiologists who are performing activities within the scope of practice of audiology must be licensed. Merely hiring an audiologist does not necessitate licensure. Budget analyst Sharon Baker provided an update on the current year budget and the status of the Board's fund condition. The 1998-99 spending authority and 1999-2000 proposed budget were reviewed, and Ms. Baker answered questions from the members. Bill language has been drafted and provided to CSHA to extend SLPAB's sunset date. The regulation proposals dealing with advertising of degrees and citations and fines have been filed with the Office of Administrative Law and are pending approval. Ms. Monagan submitted a legislative proposal to DCA to correct an incorrect reference regarding the fee for the new temporary license. Dr. Sinclair pointed out an additional drafting error that will be provided to the DCA Legislative Unit for correction. A column has been submitted to the CALSPAPP newsletter. SLPAB will host an informational forum on April 15, 1999 at the CSHA conference. The

second expert witness training workshop will be scheduled in San Diego in January. Jean Nichols has accepted a position with another state agency. Annemarie Del Mugnaio has been hired as the Board's new staff analyst effective December 15, 1999.

Agenda Item 7 Occupational Analysis Update

Norman Hertz and Roberta Chinn met with Chairperson Leonard and Ms. Monagan earlier in the month to discuss the status of the occupational analysis. Dr. Chinn discussed the background and rationale for an occupational analysis of speech-language pathology. Ms. Monagan also stated that an additional rationale for the occupational analysis was due to the increase in the number of questions the Board office receives on a regular basis regarding scope of practice. Dr. Chinn updated the members on the current status of the analysis. A survey questionnaire is being developed to be sent to 2,000 speech-language pathologists throughout the state, which will ask for background information about their practices and areas of specialization. The questionnaire will rate frequency and importance of specific aspects of knowledge to the speech-language pathologist's current job. The results will be used to develop a description of current practice and possibly to update the board's laws, regulations, and policies. The questionnaire will first be sent to the individuals who were interviewed and the workshop participants prior to be sent to the 2,000 speech-language pathologists.

Agenda Item 8 Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Ms. Powell provided a brief update on the status of the emergency regulations. After discussion, the Board agreed to defer taking action on the regulations.

Agenda Item 9 Update on Meeting with International Hearing Society Regarding use of the term "Audioprosthology"

Ms. Powell reminded the members of the motion that was adopted at the September 1997 Board meeting which stated, "Any person who represents himself or herself as an audioprosthologist is in fact holding himself or herself out as a licensed audiologist and, therefore, the use of that title without benefit of licensure is misleading to the public." Ms. Powell also informed the Board that the constitutional right to free speech was an issue and the Board may not be successful on enforcing the restriction. Mr. Hessberg addressed the September 1998 Board meeting and reiterated what the constitutional issues were regarding the use of the title "audioprosthologist" by a hearing aid dispenser. Ms. Powell, Ms. Scuri, and Mr. Hessberg subsequently met in order to discuss the constitutional issues. A consensus was reached at that meeting that if the term "audioprosthologist" is used by a hearing aid dispenser who is not a licensed audiologist, they need to add their hearing aid dispenser's license to make it clear that they are a hearing aid dispenser. Ms. Powell asked the Board to reconsider

the motion passed at the September 1997 meeting. Ms. Scuri stated that one of the reasons reconsideration is being requested is that the Hearing Aid Dispensers Examining Committee, as part of its advertising guidelines, is proposing to include the results of this Board's motion. An extensive discussion ensued. **It was M/S/C (Alessi/Sinclair) to reconsider the motion passed at the September 1997 Board meeting. There was one "no" vote.** A discussion followed regarding the coursework required to become an audioprosthologist and advertising guidelines used by hearing aid dispensers. **It was M/S/C (Alessi/Sinclair) that any person who represents himself or herself as an audioprosthologist is holding himself or herself out as a licensed audiologist unless the term "audioprosthologist" is used in conjunction with the hearing aid dispenser's license number or the term "hearing aid dispenser." There was one "no" vote.**

Agenda Item 10 Report from AB 205 Working Group

The first meeting of the working group, consisting of Chairperson Leonard, Dr. Sinclair, Mr. Powell, Ms. Monagan, and Ms. Powell, was held on November 3, 1998 to discuss draft regulations for speech-language pathology assistants and continuing professional development for all licensees. A subsequent meeting was held with Mr. Powell and Board staff to review existing continuing education requirements and develop language for the speech-language pathology assistant regulations. Additional meetings of the Working Group will be scheduled in the near future. It was proposed that a public hearing be held on the speech-language pathology assistant regulations. Dr. Sinclair offered to assist with the public hearing.

The continuing professional development regulations can be filed as emergency regulations. Ms. Powell and Ms. Monagan responded to questions from the members. After discussion, the definition of a "self-assessment testing" course was clarified in Section 1399.210, those courses which are considered outside the scope of continuing professional development were clarified in Section 1399.214, and the level of the course content to be included in any course advertisements was clarified listed in Section 1399.219. **It was M/S/C (Alessi/Pinson) to adopt the amended continuing professional development regulations and to file them as emergency regulations with the Office of Administrative Law.**

Agenda Item Eleven Closed Session

There was no closed session.

Agenda Item Twelve Public Comment on Items not on the Agenda

No public comment was received.

Agenda Item Thirteen Future Meeting Date

The next meeting date was scheduled for February 26, 1999 in San Diego (meeting date and location was rescheduled for March 12, 1999 in Burbank). The AB 205 Working Group will meet on either January 13 or January 15 in San Diego, in conjunction with the Expert Witness Training Workshop.

Dr. Alessi requested that the scope of practice and regulation of occupational therapists be placed on the agenda for the next Board meeting.

Agenda Item Fourteen Announcements

There were no announcements.

Agenda Item Fifteen Adjournment

Chairperson Leonard adjourned the meeting at 2:36 p.m.

Marilee Monagan, Executive Officer

Approved at the March 12, 1999 Board meeting

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
AUDIOLOGY COMMITTEE MEETING
Burbank Holiday Inn
150 East Angeleno Avenue
Burbank, CA
March 11, 1999
MINUTES**

Members Present

Cydney Fox, M.A.
Donald Regan, Ph.D., Chairperson
Stephen Sinclair, Ph.D.

Members Absent

David Alessi, M.D.

Staff Present

Marilee Monagan, Executive Officer
LaVonne Powell, Board Counsel

Guests Present

Woodley Butler, Self-Help for Hard of Hearing People (SHHH), Laguna Woods
Dennis Colucci, audiologist, Irvine
Linda Dye, CCHAT Center, Rialto
John Hessburg, International Hearing Society, Detroit, Michigan
Rebecca Leonard, Ph.D., Chairperson, Speech-Language Pathology and
Audiology Board, Sacramento
Michael Metz, audiologist, Irvine
Barbara Moore-Brown, President, California Speech-Language-Hearing
Association, Anaheim Hills
Lora Schwallie, Newport Audiology Centers, Westlake Village
Anita Scuri, Legal Counsel, Hearing Aid Dispensers Examining Committee,
Department of Consumer Affairs, Sacramento
Grace Tiessen, Vice President, SHHH-California, Pasadena

Agenda Item 1 Call to Order

Chairperson Regan called the meeting to order at 7:20 p.m.

Agenda Item 2 Introductions

Introductions were made by all in attendance.

Agenda Item 3 Hearing Aid Dispensers Advertising as Audiologists/Audioprosthologists

Chairperson Regan summarized the action taken at the December 1998 Board meeting. At that time, the Board passed a motion which stated that “any person who represents himself or herself as an audioprosthologist is holding himself or herself out as a licensed audiologist unless the term ‘audioprosthologist’ is used in conjunction with the hearing aid dispenser’s license number or the term ‘hearing aid dispenser’.” Ms. Powell and Ms. Scuri stated that no consumer complaints on this issue have been received by either the Speech-Language Pathology and Audiology Board or the Hearing Aid Dispensers Examining Committee.

Members and guests discussed their concerns regarding the use of the term “audioprosthologist.” Among the concerns discussed were the use of restrictive language and the First Amendment issue, consumer confusion with the terms “audioprosthologist” and “audiologist,” and discussion concerning a survey of public opinion as to whether confusion does exist between the two terms. **It was m/s/c (Fox/Regan) that the Board rescind its previous motion passed at the December 1998 Board meeting regarding the use of the terms “audioprosthology” and “audioprosthologist.”** Ms. Fox further suggested that the Board hire an organization to develop an independent survey of consumers regarding the use of the term “audioprosthologist.” **It was m/s/c (Sinclair/Fox) to direct the Executive Officer to report to the Board on a feasibility study for conducting a valid consumer survey of the public understanding of the terminology involving use of the title beginning with “audio...” and similar titles.**

Agenda Item 4 Continuing Professional Development Proposed Legislation/Regulations

The Committee discussed proposed changes to the draft regulations including the amount of the application fee, a reduction to twelve hours of CPD for those licensees whose licenses expire in 2001, continuing education hours earned for HADEC by audiologists who are also licensed as hearing aid dispensers, allowing licensees who are both speech-language pathologists and audiologists to qualify for a reduced number of CPD hours, and distance education. Ms. Monagan stated that a special mailing will be sent to all licensees regarding the CPD requirements once the emergency regulations have been adopted by the State Office of Administrative Law.

Agenda Item 5 Announcements

There were no announcements.

Agenda Item 6 Adjournment

Chairperson Regan adjourned the meeting at 9:40 p.m.

Marilee Monagan, Executive Officer

Approved at the June 25, 1999 Board Meeting



HEARING AID DISPENSERS PRACTICE COMMITTEE MEETING MINUTES

May 26, 2010

Department of Consumer Affairs

2005 Evergreen Street

“Hearing Room”

Sacramento, CA

Committee Members Present

Deane Manning, Hearing Aid Dispenser

Sandra Danz, Hearing Aid Dispenser

Rodney Diaz, M.D., Otolaryngologist

Alison Grimes, Au.D., Audiologist

Robert Green, Au.D. Audiologist

Staff Present

Annemarie Del Mugnaio, Executive Officer

LaVonne Powell, Legal Counsel

Kathi Burns, Board Staff

Cynthia Alameda, Board Staff

Yvonne Crawford, Board Staff

Debbie Newcomer, Board Staff

Lori Pinson, Board Staff

Board Members Present

Carol Murphy, M.A.

Lisa O’Connor, M.A.

Board Members Absent

Monty Martin, M.A.

Guests Present

Dennis Van Vliet, California Academy of Audiology

Tricia Hunter, Hearing Health Care Providers California

Cindy Peffers, Hearing Health Care Providers California

Jody Winzelberg, California Academy of Audiology

Marcia Raggio, California Academy of Audiology

Rebecca Bingea, University of California, San Francisco

Art Sturm, Rexton Inc.

I. Call To Order

Deane Manning called the meeting to order at 1:39 p.m.

II. Introductions

Those in attendance introduced themselves.

III. Discussion Regarding Implementation of Legislation 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 Pertaining to License Renewal Requirements & Continuing Professional Development – California Code of Regulations Section 1399.140-1399.143

Ms. Del Mugnaio explained that in the meeting packet was a proposal related to redesigning the continuing education (CE) program specifically for licensed hearing aid dispensers. She explained the context of the changes as reflected in the March 24, 2010 Hearing Aid Dispenser Committee Meeting Minutes, which included increasing the continuing education hours to twelve (12) hours annually and limiting courses that are not directly related to the practice of hearing aid dispensing. The document in the agenda packet reflected the requested changes and included provisions to define “related” and “indirect client care courses” and places a limit of four (4) hours that may be applied to the requisite twelve hours annually. The Committee also discussed placing a limit on the number of self-study courses that may be obtained.

Ms. Del Mugnaio indicated that the proposal is a draft document, but that she would like to schedule a hearing once the Committee has a final recommendation. Section 1399.140.1 defines direct client care courses as current practices in the fitting of hearing aids. She explained that the indirect client care course definition was modeled after the speech-language pathology and audiology continuing professional development definitions. Ms. Del Mugnaio pointed out that under Section 1399.141, there are examples of courses that are outside the acceptable course content, and that such content includes marketing and sales courses. Proposed amendments were included that would exclude any manufacturer courses where the courses focus on product-specific information in terms of marketing or sales. Existing provisions authorize course hours for the ethics of marketing and advertising or business practices. Under the proposed amendments, courses in ethics would be included under the indirect client care courses.

Discussion ensued regarding courses offered by hearing aid manufacturers that focus primarily on the marketing of new products. The Committee discussed the option of eliminating the approval of courses; however, it was determined that licensees would have difficulty discerning which course content would be deemed acceptable under the new provisions.

Ms. Del Mugnaio indicated that the Board needs to clearly identify which courses are considered marketing by employing subject matter experts (SMEs) who may determine the course relevance and whether the content is deemed directly relevant, related, or indirect client care.

Ms. Del Mugnaio recommended that we continue with course approval in-house and use SMEs to review courses and make recommendations regarding course relevance.

The Committee expressed concerns regarding timely processing of courses. Ms. Del Mugnaio responded that, with the use of four or five SMEs who are familiar with the hearing aid dispensing subject matter, courses could reasonably be approved within 30 days. Additionally, adding the capability of filing applications electronically, with hard copies to follow, would expedite the approval process. The Committee also expressed concern that manufacturer courses are not designed as educational courses that provide an added layer of public protection, but instead, are geared toward the marketing of a particular product and are more of a financial incentive for the manufacturer and provider. It was stated that manufacturer product courses are not prohibited, but all such courses may not apply toward CE hours for license renewal.

M/S/C: Grimes/Green

The Committee voted to approve the CE proposal be accepted with the following amendments: Increase hearing aid dispensing CE hours to 12 hours annually, of which three (3) hours may be in related or indirect client care and an additional three (3) hours in self-study; exclude courses related to personal finances, business matters, marketing and sales,

increased profitability, and office operations that are not for the benefit of the consumer; and specify time frames for approval of CE applications within 30 days as opposed to 45 days. It was also recommended that the proposal be set for hearing.

IV. Review Proposal to Clarify Song-Beverly Consumer Warranty Act (California Civil Code Section 1793.02)

Ms. Del Mugnaio explained the background and history, which included difficulties encountered in enforcing the Song-Beverly Consumer Warranty Act. At the March 24, 2010 Committee Meeting, the Board's Legal Counsel requested that the Board draft proposed changes. Mr. Green agreed to review the provisions that have been difficult to define or interpret. He prepared an overview of other states' provisions regarding the refund and return of hearing aids.

Ms. Del Mugnaio indicated that it would be less challenging to establish time frames than to establish a definition for completion of fitting.

Mr. Green referenced his issue paper, as related to the refund and return policies of other states, and stated that the Board needs to define reasonable time frames for the return of hearing aids for a refund, which services include non-refundable fees (loss to dispensers), and the maximum number of different hearing aid models that may be used by a client on a trial basis.

Ms. Del Mugnaio stated there are four issues of concern related to the enforcement of Song-Beverly provisions:

- time frame of completion of fitting;
- tolling (should this exist or not);
- documentation provided to consumers upon adjustment/return; and
- time frame of adjustment period.

Discussion ensued related to defining time periods for completion of the hearing aid fitting, trial periods/right to return, and unbundling of fees.

Ms. Del Mugnaio requested that Mr. Manning and Mr. Green come up with language to submit to the Board's Legal Counsel before the July 26, 2010 meeting.

Mr. Manning adjourned the meeting at 2:50 p.m.