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 one-year 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) No~~t~~ 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) No~~t~~ 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. Self-study does not include live or on-demand 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) ~~Any~~ 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, incorporated herein by reference, forms (____) 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 Executive Officer of the Board the denial of approval of any course. Such appeal shall be filed with the Executive Officer of the Board not more than 30 days after the date of notice of such denial. The Executive Officer shall notify the provider within ten (10) days of the final decision of the appeal.

(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. ~~(c)~~ (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.

Proposed Regulatory Provisions for Song Beverly Consumer Warranty Act

Pursuant to the provisions of Civil Code Section 1793.02 et seq., The Song Beverly Consumer Warranty Act, and Business and Professions Code Section 3365 (f), the following express warranty provisions shall apply to hearing aid devices:

a) A consumer shall be entitled to a refund of the cost of a hearing aid device, should the device be returned to the hearing aid dispenser for a refund within thirty (30) days from the date the consumer acquired the device from the hearing aid dispenser.
    (1) The following items are deemed non-refundable and shall be specified as such on the hearing aid device purchase agreement:
        A. Earmolds (not to exceed____)
        B. Manufacturer shipping and handling fees
        C. Manufacturer restocking fees
        D. After sale added options (do we need to list?)
b) The above "right of return" provision shall be "tolled" in the event that the hearing aid device is returned by the consumer to the hearing aid dispenser for service or adjustment. The time period the hearing aid device is in the possession of the hearing aid dispenser, shall be excluded from the thirty (30) day right of return period:
c) Any period of time that the hearing aid dispenser is in possession of a device that has been serviced or adjusted and fails to notify the consumer the device is available for retrieval, or fails to make the device available to the consumer for retrieval, shall be deemed "tolled" and shall be excluded from the right of return period.
d) Should the consumer fail to retrieve the hearing aid device from the hearing aid dispenser within two (2) business days of being notified that the device has been repaired or adjusted, the right of return period shall commence.
e) The hearing aid dispenser shall provide the consumer with a written purchase agreement signed by both the hearing aid dispenser and the consumer that contains the following: the specified date(s) the device was initially purchased, the date(s) the device was returned to the hearing aid dispenser for service or adjustment, and the date(s) the device was retrieved by the consumer.

Issues left to be discussed:

- *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???)*

Amend Section 1793.02 of the Civil Code to read:

1793.02. (a) All new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: "This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws." In lieu of the words "30 days" the retail seller may specify any longer period.

(b) The language prescribed in subdivision (a) shall appear on the first page of the warranty in at least 10-point bold type. The warranty shall be delivered to the buyer at the time of the sale of the device.

(c) 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.

(d) With respect to the retail sale of an assistive device to an individual, organization, or agency known by the seller to be purchasing for the ultimate user of the device, this section and subdivision (b) of Section 1792.2 shall be construed to require that the device be specifically fit for the particular needs of the ultimate user.

(e) This section and subdivision (b) of Section 1792.2 shall not apply to any of the following sales of assistive devices:

(1) A catalog or similar sale, as defined in subdivision (q) of Section 1791, except a sale of a hearing aid.

(2) A sale which involves a retail sale price of less than fifteen dollars ($15).

(3) A surgical implant performed by a physician and surgeon, or a

restoration or dental prosthesis provided by a dentist.

(f) The rights and remedies of the buyer under this section and subdivision (b) of Section 1792.2 are not subject to waiver under Section 1792.3. The rights and remedies of the buyer under this section and subdivision (b) of Section 1792.2 are cumulative, and shall not be construed to affect the obligations of the retail seller or any other party or to supplant the rights or remedies of the buyer under any other section of this chapter or under any other law or instrument.

(g) Section 1795.5 shall not apply to a sale of used assistive devices, and for the purposes of the Song-Beverly Consumer Warranty Act the buyer of a used assistive device shall have the same rights and remedies as the buyer of a new assistive device.

(h) The language in subdivision (a) shall not constitute an express warranty for purposes of Sections **1793**.2 and **1793**.3.

(i) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board created pursuant to Section 2531 of the Business and Professions Code may adopt regulations to carry out the purposes and objectives of Subdivisions (a), (b) and (c). Until the board adopts regulations under this subdivision, subdivisions (a), (b) and (c) shall remain in effect.

Speech-Language Pathology Practice Committee Questions/Facts

(Carol Murphy, Committee Chair)

1. Telepractice *Questions*
   a. Regulation of Speech-Language Pathology Assistants?
   b. Regulation of RPE's?
   c. Overall, do we need regulations pertaining to telepractice in addition to what is already in the B&P code?
   d. What if someone files a complaint in a state other than CA but that SLP is practicing in CA?
2. Speech-Language Pathology Assistants

   Questions

   a. Should BA level Assistants equivalency be rescinded?
   b. What is the status of jobs for SLPAs?
   c. What would happen to SLPA AA degree programs?

   Some Facts

(SLAPB created Assistant Category in 1998, Business and Professions Code Section 2538.1 In September 2005, the SLPAB amended the eligibility provisions for bachelor degree holders to qualify for registration as SLPAs deeming the clinical experience completed in the undergraduate training programs as acceptable toward the SLPA field work requirements)

   a. CSU Northridge started an online SLPA program similar to its online SLP graduate program. Field supervisors are provided to the students through various agencies including public schools. This seems to alleviate the difficulty in obtaining field work for BA level graduates as the college must have someone providing field work supervision that is affiliated, or a designee, of the college. It also provides an avenue to obtain an AA in Speech-Language Pathology Assistance online.
   b. An informal survey by Carol Murphy, in which she sent emails and talked with several special education directors in the northern parts of CA, indicated the following:
      - The use of SLPAs was not financially meaningful.
      - Most directors were confused about the differences between educational aides, SLP aides and SLP Assistants.
      - The confusion noted above was compounded by the amount of supervision required for each.
      - Special Education directors had difficulty creating a salary schedule for the SLPA category since many educational aides need only have a high school degree. The BA level Assistant was appealing because it was easier to create a salary schedule for that category.

- Failure of Medi-Cal to recognize reimbursement for the use of SLPAs.
- Average CA SLP caseload in the schools is 55- SLP caseload could not be expanded or lessened with the use of SLPAs

Speech-Language Pathology Assistants References

Speech-Language Pathology Assistants (SLAPB Sunset Report, 9/1/06)

An SPLA is limited to the responsibilities, duties and functions as provided in Section 2538.1 of the Business and Professions Code. Article 12, Section 1399.170.3 of the regulations pertaining to SLPAs specifies the activities, duties and functions outside the scope of responsibilities of an SLPA.

To be eligible for registration by the SLPAB as an SLPA, the applicant must possess at least one of the following qualifications (Article 12, Section 1399.170.11):

a) An associate of arts degree from a SLPA program accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, and approved by the SLPAB, or

b) Evidence of completion of a bachelor's degree in speech-language pathology or communication disorders from an institution listed in the "Accredited Institutions of Post-Secondary Education" handbook issued by the Council on Education, and completion of a minimum of seventy (70) clock hours of field work from a Board approved program (either an approved SLPA program or an undergraduate program as described above).

c) Evidence of completion of an equivalent SLPA associate of arts or sciences degree program, which includes the competencies listed in the American Speech-Language-Hearing Association's 2004 Guidelines for the Training, Use and Supervision of SLPAs, Appendix B.

Typically, students who graduate with an associate of arts or science degree as an SLPA will have taken between 60 and 65 semester units, prior to being registered by the SLPAB as an SLPA. Registration requirements specify that the applicant will have taken 60 semester units, which include the following:

1) Twenty (20) to thirty (30) semester units in general education requirements, including but not limited to, basic communication skills, knowledge of mathematics, liberal arts, and biological, behavioral and health sciences.

2) Thirty (30) to forty (40) semester units in course work that satisfy the competencies defined in the American Speech-Language-Hearing Association's 2004 Guidelines for the Training, Use and Supervision of SLPAs, Appendix B, including fifteen (15) hours of directed observation, and a minimum of seventy (70) clock hours of field work experience.

The achievement of this experience, along with the required academic course work and a Department of Justice and Federal Bureau of Investigation fingerprint clearance, qualifies an individual for registration.

Recently, national school personnel standards for paraeducators involved with core curricula have been established with the AA degree as a target standard (i.e., No Child Left Behind Act - NCLB). The federal Individuals with Disabilities Education Act (IDEA '05) is currently undergoing alignment with NCLB including personnel standards. As special education speech and language services are mainstreamed and coordinated with the classroom and core curricula (e.g., oral language development, phonemic awareness, reading and language arts, etc.), California's AA degree SLPA standards will be compatible with and satisfy these new federal paraeducator standards. SLPAs are required to be registered by the SLPAB regardless of work setting. In other words, there are no exempt settings for this level of service delivery.

CA B&P Code § 2538.3. Course of study; Aides
(a) A person applying for approval as a speech–language pathology assistant shall have graduated from a speech–language pathology assistant associate of arts degree program, or equivalent course of study, approved by the board. A person who has successfully graduated from a board–approved **SLPAB** bachelor's degree program in speech–language pathology or communication disorders shall be deemed to have satisfied an equivalent course of study.

Added Stats 1998 ch 1058 § 6 (AB 205). Amended Stats 2001 ch 173 § 2 (SB 50), effective August 13, 2001.

Current Policies and New Directions for Speech-Language Pathology Assistants
LANGUAGE, SPEECH, AND HEARING SERVICES IN SCHOOLS • Vol. 32 • 4–17 • January 2001 © American Speech-Language-Hearing Association, Perspectives on School Based Issues, 10, March, 2009.**,Diane Paul-Brown,** American Speech-Language-Hearing Association, Rockville, MD**, Lynette R. Goldberg** George Washington University, Washington, DC

Mc Neilly, Lemmietta, ***Speech-Language Pathology Assistants Current State of Affairs,*** ASHA, Perspectives on School-Based Issues, December, 2010.

Regulating the Use of Support Personnel in Schools, Sharon Ross, University of Central Arkansas Conway, AR, **Marcia Harding,** Arkansas Department of Education, Special Education, Little Rock, AR

Average Caseload in the schools in CA, according to ASHA 2010 Schools Survey 55
Language, Speech, and Hearing Services in Schools Vol.41 233-264 July 2010. doi:10.1044/0161-1461(2009/08-0128), ASHA Schools Survey

Evidence-Based Systematic Review: Effects of Different Service Delivery Models on Communication Outcomes for Elementary School–Age Children *Language, Speech, and Hearing Services in Schools* Vol.41 233–264 July 2010,

By - Frank M. Cirrin **Minneapolis Public Schools, MN** Tracy L. Schooling **National Center for Evidence-Based Practice in Communication Disorders, Rockville, MD** Nickola W. Nelson, **Western Michigan University, Kalamazoo** Sylvia F. Diehl **University of South Florida, Tampa** Perry F. Flynn **North Carolina Department of Public Instruction, Raleigh, The University of North Carolina at Greensboro** Maureen Staskowski **Macomb Intermediate School District, Clinton Township, MI** T. Zoann Torrey **Kansas State Department of Education (Retired), Topeka** Deborah F. Adamczyk **American Speech-Language-Hearing Association, Rockville, MD Contact author: Frank M. Cirrin, Minneapolis Public Schools/Special Education, 425 5th Street, NE, Minneapolis, MN 55413.**

Evidence from this study review suggests that the use of SLPA's for certain language disorder issues of children in the schools is just as effective as working with SLP's.

O-Net Online- Wages and Employment Trends for Speech-Language Pathology Assistants-

National Projected growth from 2008-2018 – 14 to 19%

National Projected job openings 2008-2018 56,700

(retrieved from the internet 11/18/10)

Telepractice References

Grogan-Johnson S, Alvares R, Rowan L, Creaghead N, *A Pilot Study Comparing the Effectiveness of Speech-Language Therapy Provided by Telemedicine with Conventional On-Site Therapy*, **Journal of Telemedicine and Telecare**, Volume 16 (3): 134-9.

Hill, Anne J, Theodoros Deborah G., Russell Trevor G., Cahill, Louise M., Ward, Elizabeth C., ,The University of Queensland, Brisbane, Queensland, Australia , Clark, Kathy M., Princess Alexandra Hospital, Brisbane, Queensland, Australia
Contact author: Anne J. Hill,Division of Speech Pathology, School of Health and Rehabilitation Sciences, The University of Queensland, Brisbane, Queensland 4072, *An Internet-Based Telerehabilitation System for the Assessment of Motor Speech Disorders: A Pilot Study*, **American Journal of Speech-Language Pathology** Vol.15 45-56 February 2006.

Ramanow, Kate & Brannon, Janice A. *Telepractice Reimbursement Is Still Limited*, ASHA Leader, November, 2010.

Waite, Monique C, Theodoros, Deborah G., Russell, Trevor, Cahill Louise M., *Internet-Based Assessment of Language Using the CELF-4*, **Language, Speech, and Hearing Services in Schools** Vol.41 445-458 October 2010.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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EXCERPTS FROM THE CALIFORNIA BUSINESS AND PROFESSIONS CODE FOR SPEECH-LANGUAGE PATHOLOGY ASSISTANT

2538. A person seeking approval as a speech-language pathology assistant shall make application to the board for that approval.

2538.1. (a) The board shall adopt regulations, in collaboration with the State Department of Education, the Commission on Teacher Credentialing, and the Advisory Commission on Special Education, that set forth standards and requirements for the adequate supervision of speech-language pathology assistants.

(b) The board shall adopt regulations as reasonably necessary to carry out the purposes of this article, that shall include, but need not be limited to, the following:

(1) Procedures and requirements for application, registration, renewal, suspension, and revocation.

(2) Standards for approval of Associate Degree Speech-Language Pathology Assistant training programs based upon standards and curriculum guidelines established by the National Council on Academic Accreditation in Audiology and Speech-Language Pathology, or the American Speech-Language-Hearing Association, or equivalent formal training programs consisting of two years of technical education, including supervised field placements.

(3) Standards for accreditation of a Speech-Language Pathology Assistant Training program's institution by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges, or the Senior College Commission of the Western Association of Schools and Colleges, or equivalent accreditation.

(4) The scope of responsibility, duties, and functions of speech-language pathology assistants, that shall include, but not be limited to, all of the following:

(A) Conducting speech-language screening, without interpretation, and using screening protocols developed by the supervising speech-language pathologist.

(B) Providing direct treatment assistance to patients or clients under the supervision of a speech-language pathologist.

(C) Following and implementing documented treatment plans or protocols developed by a supervising speech-language pathologist.

(D) Documenting patient or client progress toward meeting established objectives, and reporting the information to a supervising speech-language pathologist.

(E) Assisting a speech-language pathologist during assessments, including, but not limited to, assisting with formal documentation, preparing materials, and performing clerical duties for a supervising speech-language pathologist.

(F) When competent to do so, as determined by the supervising speech-language pathologist, acting as an interpreter for non-English-speaking patients or clients and their family members.

(G) Scheduling activities and preparing charts, records, graphs, and data.

(H) Performing checks and maintenance of equipment, including, but not limited to, augmentative communication devices.

(I) Assisting with speech-language pathology research projects, in-service training, and family or community education.

The regulations shall provide that speech-language pathology assistants are not authorized to conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist.

(5) The requirements for the wearing of distinguishing name badges with the title of speech-language pathology assistant.

(6) Minimum continuing professional development requirements for the speech-language pathology assistant, not to exceed 12 hours in a two-year period. The speech-language pathology assistant's supervisor shall act as a professional development advisor. The speech-language pathology assistant's professional growth may be satisfied with successful completion of state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication and related disorders.

(7) Minimum continuing professional development requirements for the supervisor of a speech-language pathology assistant.

(8) The type and amount of direct and indirect supervision required for speech-language pathology assistants.

(9) The maximum number of assistants permitted per supervisor.

(10) A requirement that the supervising speech-language pathologist shall remain responsible and accountable for clinical judgments and decisions and the maintenance of the highest quality and standards of practice when a speech-language pathology assistant is utilized.

2538.3. (a) A person applying for approval as a speech-language pathology assistant shall have graduated from a speech-language pathology assistant associate of arts degree program, or equivalent course of study, approved by the board. A person who has successfully graduated from a board approved bachelor's degree program in speech-language pathology or communication disorders shall be deemed to have satisfied an equivalent course of study.

2538.5. This article shall not be construed to limit the utilization of a speech aide or other personnel employed by a public school working under the direct supervision of a credentialed speech-language pathologist as set forth in subdivision (c) of Section 3051.1 of Title 5 of the California Code of Regulations.

2538.7. (a) No person who is not registered as a speech-language pathology assistant shall utilize the title speech-language pathology assistant or a similar title that includes the words speech or language when combined with the term assistant.

(b) No person who is not registered as a speech-language pathology assistant shall perform the duties or functions of a speech-language pathology assistant, except as provided by this chapter.

TITLE 16 CALIFORNIA CODE OF REGULATIONS SPEECH-LANGUAGE PATHOLOGY ASSISTANT

1399.170. Definitions.

As used in this article:

(a) "Accountability" means being legally responsible and answerable for actions and inaction's of self or others during the performance of a task by the speech-language pathology assistant.

(b) "Client" shall have the same meaning and effect as the term "patient" and "student," when referring to services provided in a school setting, for purposes of interpreting the provisions in this Article.

(c) "Direct supervision" means ~~on-site~~ observation and guidance by the supervising speech-language pathologist <u>provided on-site or via electronic means,</u> while a clinical activity is performed by the speech-language pathology assistant. Direct supervision performed by the supervising speech-language pathologist may include, but is not limited to, the following: observation of a portion of the screening or treatment procedures performed by the speech-language pathology assistant, coaching the speech-language pathology assistant, and modeling for the assistant.

(d) "Immediate supervision" means the supervising speech-language pathologist is physically present during services provided to the client by the speech-language pathology assistant.

(e) "Indirect supervision" means the supervising speech-language pathologist is not at the same facility or in close proximity to the speech-language pathology assistant, but is available to provide supervision by electronic means. Indirect supervision activities performed by the supervising speech-language pathologist may include, but are not limited to, demonstration, record review, review, and evaluation of audio or video-taped sessions, interactive television, and supervisory conferences that may be conducted by telephone or electronic mail.

(f) "Medically fragile" is the term used to describe a client that is acutely ill and in an unstable condition and if treated by a speech-language pathology assistant, immediate supervision by a speech-language pathologist is required.

(g) "Screening" is a pass-fail procedure to identify, without interpretation, clients who may require further assessment following specified screening protocols developed by the supervising speech-language pathologist.

(h) "Supervision" for the purposes of this article, means the provision of direction and evaluation of the tasks assigned to a speech-language pathology assistant. Methods for providing supervision include direct supervision, immediate supervision, and indirect supervision.

(i) "Support personnel" means individuals who, following academic and/or on-the-job training, perform tasks as prescribed, directed, and supervised by a speech-language pathologist. There are different levels of support personnel based on training and scope of responsibilities.

1399.170.1. Responsibilities, Duties, and Functions of a Speech-Language Pathology Assistant

(a) A speech-language pathology assistant shall be limited to the responsibilities, duties, and functions as provided in Section 2538.1 of the Code.

(b) A speech-language pathology assistant shall disclose while working, his or her name and registration status, as granted by the state, on a name tag in at least 18-point type.

1399.170.2. Types of Supervision Required for Duties Performed by a Speech-Language Pathology Assistant

(a) Duties performed by the speech-language pathology assistant that require immediate supervision may include, but are not limited to, any direct client activity involving medically fragile patients. In such instances, the speech-language pathology assistant shall act only under the direction of the supervisor.

(b) Duties performed by the speech-language pathology assistant that require direct supervision may include, but are not limited to, any new screening or treatment activity that the assistant has been trained to perform by the supervisor, but has not yet been performed by the speech-language pathology assistant in direct client care.

(c) Duties performed by the speech-language pathology assistant that require indirect supervision may include, but are not limited to, the following:

(1) Screening or treatment activities where the supervisor has previously given instructions as to how to perform the task, has observed the assistant in the conduct of these activities, and is satisfied that the activities can be competently performed by the speech-language pathology assistant, i.e., repetitive drill exercises, generalization or carryover activities;

(2) Clerical tasks such as record keeping, materials preparation, scheduling, equipment maintenance; and,

(3) Other non-client care activities.

1399.170.3. Activities, Duties, and Functions Outside the Scope of Responsibilities of a Speech-Language Pathology Assistant.

A speech-language pathology assistant may not conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist. The speech-language pathology assistant may not perform any of the following functions:

(a) Participate in parent conferences, case conferences, or inter-disciplinary team conferences without the supervising speech-language pathologist or another speech-language pathologist being present;

(b) Provide counseling or advice to a client or a client's parent or guardian which is beyond the scope of the client's treatment;

(c) Sign any documents in lieu of the supervising speech-language pathologist, i.e., treatment plans, client reimbursement forms, or formal reports;

(d) Discharge clients from services;

(e) Make referrals for additional services;

(f) Unless required by law, disclose confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist;

(g) Represent himself or herself as a speech-language pathologist; and,

(h) Perform procedures that require a high level of clinical acumen and technical skill, i.e., vocal tract prosthesis shaping or fitting, vocal tract imaging, and oropharyngeal swallow therapy with bolus material.

1399.170.4. Application for Approval of Speech-Language Pathology Assistant Training Programs.

(a) To be eligible for approval by the Board as a speech-language pathology assistant training program (hereinafter referred to as "program"), the sponsoring institution shall be accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(b) An educational institution seeking approval of a speech-language pathology assistant program shall:

(1) Notify the Board in writing, by submitting a request from the officially designated representative of the sponsoring institution and the speech-language pathology assistant program director, of its intent to offer a new program.

(2) No later than six (6) months prior to the enrollment of students, submit a formal proposal to the Board demonstrating how the program will meet the requirements of Sections 1399.170.5. through 1399.170.10. The Board, at its sole discretion, may retroactively approve programs that enrolled students prior to the effective date of the regulations.

(c) The Board shall review the request and formal proposal and may thereafter grant or deny approval. The Board may request additional information to evaluate the request for approval and shall notify the program of its decision in writing within sixty (60) days from receipt of all requested documents.

(d) A material misrepresentation by the program of any information required to be submitted to the Board may be grounds for denial of approval or removal of the program from the approved list.

1399.170.5. Approval Requirements for Programs

(a) In order for the program to be approved by the Board or to retain its approval, it shall comply with all requirements set forth in this article.

(b) The letter of approval shall be returned to the Board when the program's approval has been revoked.

1399.170.6. Requirements of The Sponsoring Institution.

(a) Responsibilities of the sponsoring institution and of each field work site shall be clearly established by formal agreement or memorandum of understanding.

(b) The sponsoring institution shall assume primary responsibility for receiving and processing applications for student admissions, curriculum planning, selection of course content, coordination of classroom teaching and supervised field work, appointment of faculty, and granting the completion certificate or degree, or otherwise documenting satisfactory completion of the program.

(c) Student records including admission, enrollment, academic performance directed observation, field work clock hours, and demonstration of field work competencies shall be maintained by the sponsoring institution according to its policies. Grades and credits for courses must be recorded on students' transcripts and shall be maintained by the sponsoring institution. Hours for field work experiences and supervision shall be recorded and documented by supervisory staff.

(d) The program director of the sponsoring institution shall be responsible for ensuring that the scope of responsibilities delegated to students during field work experiences are appropriate to the training received and the clients assigned, and consistent with the American Speech-Language-Hearing Association's Guidelines for the Training, ~~Credentialing~~, Use, and Supervision of Speech-Language Pathology Assistants (~~1996, Spring~~ ASHA 2004), incorporated herein by reference, and that all approved criteria for speech-language pathology assistant training has been met.

1399.170.7. Administration and Organization of the Program.

(a) There shall be a written statement of program objectives which serves as a basis for curriculum structure. Such statement shall be nondiscriminatory with respect to race, color, creed, gender, age, or disabling conditions.

(b) The policy and procedures by which the program is administered shall be in writing, shall reflect the objectives of the program, and shall be provided to all applicants. The policy and procedures shall include all of the following:

(1) Completion requirements that are accurately stated and published;

(2) Procedures for processing student and faculty grievances;

(3) Policies and procedures regarding student academic probation, field work suspension, and program dismissal;

(4) Provisions for the health and safety of clients, students, and faculty associated with training activities.

(5) Requirements to become registered by the Board as a speech-language pathology assistant.

(c) The program shall have a written plan for evaluation of the effectiveness and outcomes of the program, including admission and selection procedures, attrition and retention of students, and measurements of student achievements. The results of the evaluation shall be reflected in the curricular changes and other modifications of the program.

(d) The program shall have sufficient resources, including faculty, library, staff and support services, physical space and equipment to achieve the program's objectives.

(e) The student/teacher ratio shall:

(1) Permit the achievement of the stated objectives of the program;

(2) Be compatible with accepted practices of the sponsoring institution;

(3) Ensure student and client safety, and quality training in laboratory and field work experiences by adjustment of faulty/student ratios when required; and

(4) Be consistent with available resources, i.e. faculty, field work sites, materials, and equipment.

1399.170.8. Field Work Experience.

(a) A program shall not utilize agencies and/or community facilities for field work experience without prior program approval by the Board. Each program must submit evidence that it has complied with the requirements of subdivision (b) and (c) of this section.

(b) A program that utilizes agencies and/or community facilities for field work experience shall maintain written objectives for students learning in such facilities, and shall assign students only to facilities that can provide the experience necessary to meet those objectives.

(c) Each such program shall maintain written agreements with such facilities and such agreements shall include the following:

(1) Assurance of the availability and appropriateness of the learning environment in relation to the program's written objectives;

(2) Provision for orientation of faculty and students;

(3) A specification of the responsibilities and authority of the facility's staff as related to the program and to the educational experience of the students;

(4) Assurance that staff is adequate in number and quality to insure safe and continuous health care services to patients;

(5) Provisions for continuing communication between the facility and the program; and

(6) A description of the responsibilities of faculty assigned to the facility utilized by the program.

1399.170.9. Compliance With Site Visits.

(a) The Board may, through its Executive Officer, inspect all programs and their respective field work facilities in this state at such time as the Board shall deem necessary.

(1) The program and/or institution shall fully cooperate with Board representatives during site visits, including but not limited to, providing access to all records which the Board deems necessary or appropriate to determine whether the program meets the standards of this chapter.

(2) The program and/or institution shall facilitate the Board's onsite visit including the inspection of records, inspection of all facilities and equipment, observation of class sessions, or interviews with officers, administrators, faculty, or students.

(b) Written reports of the Executive Officer's visits shall be made to the Board which shall thereupon approve the programs that meet the requirements defined in this Article.

1399.170.10. Required Curriculum.

(a) A program's curriculum shall not be implemented or revised until it has been approved by the Board.

(b) The curriculum shall be designed so that a speech-language pathology assistant who completes the program will have the knowledge and skills necessary to function in accordance with the minimum standards set forth in Section 2538.1(b)(3) of the Business and Professions Code.

(c) The curriculum shall consist of not less than sixty (60) semester units or ninety (90) quarter units, which shall include the following:

(1) Twenty (20) to thirty (30) semester units or thirty (30) to forty-five (45) quarter units in general education requirements, including but not limited to, basic communication skills, knowledge of mathematics, liberal arts, and biological, behavioral and heath sciences.

(2) Thirty (30) to forty (40) semester units or forty-five (45) to sixty (60) quarter units in course work that satisfies the ~~competencies~~ curriculum defined in the American Speech-Language-Hearing Association's Guidelines for the Training, ~~Credentialing~~, Use, and Supervision of Speech-Language Pathology Assistants Appendix ~~C~~ B ~~Speech-Language Pathology Assistant Suggested Competencies~~ Sample Course Work and Field Work for the Speech-Language Pathology Assistant (~~1996, Spring~~ ASHA 2004) including the following observation and field work experiences:

(A) A minimum of fifteen (15) clock hours of directed observation; and

(B) A minimum of ~~seventy (70)~~ one-hundred (100) clock hours of field work experience.

(d) The course of instruction shall be presented in semester or quarter units under the following formula:

(1) One (1) hour of instruction in theory each week throughout a semester or quarter equals one (1) unit.

(2) Three (3) hours of field work practice each week throughout a semester or quarter equals one (1) unit.

1399.170.11. Qualifications for Registration as a Speech-Language Pathology Assistant.

To be eligible for registration by the Board as a speech-language pathology assistant, the applicant must possess at least one of the following qualifications:

(a) An associate of arts or sciences degree from a speech-language pathology assistant program accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, and approved by the Board; or

(b) Evidence of completion of a bachelor's degree program in speech-language pathology or communication disorders from an institution listed in the "Accredited Institutions of Postsecondary Education" handbook issued by the

American Council on Education, and completion of the field work experience as required in Section 1399.170.10(c)(2)(B) from a Board-approved program, or completion of a minimum of ~~seventy (70)~~ one-hundred (100) hours of field work experience or clinical experience equivalent to that required in Section 1399.170.10(c)(2)(B) in a bachelor's degree program as recognized in this subsection.

(1) The equivalent field work hours or clinical experience completed in a bachelor's degree program in speech-language pathology or communication disorders shall be evaluated for verification by the current training program director.

(2) In the event that the field work experience or clinical experience completed in the bachelor's degree program is deemed deficient by the authorized representative of a board-approved speech-language pathology assistant training program, the applicant may petition the Board for reconsideration.

(3) In lieu of completion of the seventy (70) hours of field work experience or clinical experience in a bachelor's degree program as defined in subsection (b) above, the Board may consider the completion of nine months of full-time work experience performing the duties of a speech-language pathology assistant enumerated in paragraph (4) of subsection (b) of Section 2538.1 of the Business and Professions Code as equivalent to the required clinical training.

(c) Evidence of completion of an equivalent speech-language pathology assistant associate of arts or science degree program, which includes the ~~competencies~~ curriculum in the American Speech-Language-Hearing Association's Guidelines for the Training, ~~Credentialing~~, Use, and Supervision of Speech-Language Pathology Assistants, Appendix ~~C~~ B~~–~~ ~~Speech-Language Pathology Assistant~~ ~~Suggested Competencies~~ Sample Course Work and Field Work for the Speech-Language Pathology Assistant (~~1996, Spring~~ ASHA 2004).

1399.170.13. Application and Fees.

(a) Each person desiring registration as a speech-language pathology assistant shall file application forms (77A-60 New 10/01 and, if applicable, 77A-61 New 04/01) and any required supporting documentation with the Board as provided in Section 1399.151.1. Upon receipt of the speech-language pathology assistant application, the Board will review the application for registration and notify the applicant of its approval or disapproval.

(b) All applicants shall submit at the time of filing the speech-language pathology assistant application, a non-refundable fee of $50.00, which includes a non-refundable $25.00 application fee and a non-refundable $25.00 registration fee pursuant to Section 2534.2 of the Code.

1399.170.14. Requirements for Renewal.

(a) The renewal fee for registration as a speech-language pathology assistant is $75.00 every two years pursuant to Section 2534.2 of the Code.

(b) When applying for renewal, a speech-language pathology assistant shall certify in writing, by signing a statement under penalty of perjury that, during the preceding two years, the speech-language pathology assistant has completed twelve (12) hours of continuing professional development through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication disorders.

1399.170.15. Requirements for the Supervision of the Speech Language Pathology Assistant.

(a) The supervising speech-language pathologist is responsible for designing and implementing a supervisory plan that protects client care and maintains the highest possible standards of quality. The amount and type of supervision required should be consistent with the skills and experience of the speech-language pathology assistant, the needs of the clients, the service setting, the tasks assigned, and the laws and regulations that govern speech-language pathology assistants. Treatment of the client remains the responsibility of the supervisor.

b) Any person supervising a speech-language pathology assistant registered with the Board on or after April 10, 2001, (hereinafter called "supervisor") shall submit, within thirty (30) days of the commencement of such supervision, the "Responsibility Statement for Supervision of a Speech-Language Pathology Assistant" (77S-60, New 12/99), which requires that:

(1) The supervisor shall possess and maintain a current valid California license as a speech-language pathologist as required in Section 2532 of the Code and Section 1399.160.3 of California Code of Regulations or may hold a valid and current professional clear, clear, or life clinical or rehabilitative services credential in language, speech and hearing issued by the California Commission on Teacher Credentialing.

(2) The supervisor shall immediately notify the assistant of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or lapse in licensure, that affects the supervisor's ability or right to supervise.

(3) The supervisor shall ensure that the extent, kind and quality of the clinical work performed is consistent with the training and experience of the person being supervised, and shall be accountable for the assigned tasks

performed by the speech-language pathology assistant. The supervisor shall review client/patient records, monitor and evaluate assessment and treatment decisions of the speech-language pathology assistant, and monitor and evaluate the ability of the assistant to provide services at the site(s) where he or she will be practicing and to the particular clientele being treated, and ensure compliance with all laws and regulations governing the practice of speech-language pathology.

(4) The supervisor shall complete not less than six (6) hours of continuing professional development in supervision training in the initial two year period from the commencement of supervision, and three (3) hours in supervision training of continuing professional development every two years thereafter. Continuing professional development training obtained by a Board-approved provider that meets the course content listed below, may be applied towards the continuing professional development requirement for licensees set forth in Section 1399.160.3 of the California Code of Regulations. The content of such training shall include, but is not limited to:

(A) Familiarity with supervision literature through reading assignments specified by course instructors; and

(B) Improving knowledge and understanding of the relationship between the speech-language pathologist and the assistant, and the relationship between the speech-language pathologist and the client.

(C) Structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;

(D) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and

(E) The practice of clinical speech-language pathology including the mandated reporting laws and knowledge of ethical and legal issues.

(5) The supervisor shall maintain records of course completion for a period of two years from the speech-language pathology assistant's renewal date.

(6) The supervisor knows and understands the laws and regulations pertaining to supervision of speech-language pathology assistants.

(7) As the professional development advisor, the supervisor shall assist in the development of a plan for the speech-language pathology assistant to complete twelve (12) hours of continuing professional development every two years through state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication disorders.

(8) The supervisor shall communicate to the speech-language pathology assistant the manner in which emergencies will be handled.

(9) Upon written request of the Board, the supervisor shall provide the Board with any documentation which verifies the supervisor's compliance with the requirements set forth in this article.

1399.170.16. Maximum Number of Support Personnel.

A supervisor shall not supervise more than three (3) support personnel, not more than two of which hold the title of speech-language pathology assistant. Support personnel includes speech-language pathology assistants and speech-language pathology aides.

1399.170.17. Multiple Supervision.

If a speech-language pathology assistant has more than one supervisor, each supervisor shall submit a Supervisor Responsibility Statement. Of the multiple supervisors, one shall be designated as the lead supervisor for purposes of assisting the speech-language pathology assistant in his or her compliance with the continuing professional development requirement.

1399.170.18. Notice of Termination.

At the time of termination of supervision, the supervisor shall complete the "Termination of Supervision" form (77S-61 New 12/99). This original signed form shall be submitted to the Board by the supervisor within fourteen (14) days of termination of supervision.

1399.170.19. Discipline of a Speech-Language Pathology Assistant Registration

(a) Every registrant, including a registrant whose registration has expired or been placed in an inactive status, may be disciplined as provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the Board shall have all the powers granted herein.

(b) The Board may deny an application for a speech-language pathology assistant or take disciplinary action against a speech-language pathology assistant for any of the following:

(1) Unprofessional conduct, which includes, but is not limited to, the following:

(A) Incompetence or gross negligence in performing speech-language pathology assistant functions,

(B) Denial of licensure, voluntary surrender, revocation, suspension, restriction, or any other disciplinary action against a health care professional license, certificate, or registration by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(2) Procuring a license, certificate or registration by fraud, misrepresentation, or mistake.

(3) Making or giving any false statement or information in connection with the application as a speech-language pathology assistant.

(4) Conviction of a misdemeanor or felony substantially related to the qualifications, functions, and duties of a speech-language pathology assistant, in which event a copy of the record of conviction shall be conclusive evidence thereof.

(5) Impersonating another speech-language pathology assistant or licensed health care professional, or permitting or allowing another person to use his or her registration for the purpose of practicing or holding himself or herself out as a speech-language pathology assistant.

(6) Administering to himself or herself any controlled substance or using of dangerous drug specified in Section 4022 of the Code, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for or holding a registration to conduct with safety to the public the practice authorized by the registration or the conviction of a misdemeanor or felony involving the use, consumption, or self-administration of any of the substances referred to in this
subdivision, or any combination thereof.

(7) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of this article or any regulation adopted by the Board.

(8) Misrepresentation as to the type or status of a registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliation to any person or entity.

(9) Intentionally or recklessly causing physical or emotional harm to any client.

(10) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a speech-language pathology assistant.

(11) Engaging in sexual relations with a client, or if the client is a minor, the client's parent.

(12) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(13) Advertising in a manner that is false, misleading, or deceptive.

(c) The Board may refuse to issue any registration whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 of the Code shall apply to any denial of a registration pursuant to this section.

(d) The Board may place a registration on probation under the following circumstances:

(1) In lieu of, or in addition to, any order of the Board suspending or revoking the license or registration of any registrant.

(2) Upon the issuance of a registration to an individual who has been guilty of unprofessional conduct, but who had otherwise completed all education and training and experience required for registration.

(3) As a condition upon the reissuance or reinstatement of any registration that has been suspended or revoked by the Board.

(e) The cost of probation or monitoring may be ordered to be paid by the registrant or applicant.

(f) The Board, in its discretion, may require any registrant who has been placed on probation, or whose registration has been suspended, to obtain additional professional training including, but not limited to, education, clinical work, or field work.

SLP ASSISTANTS Q & A

CSHA Magazine RP Draft 9/25/06

CSHA's Board of Directors includes two representatives for speech-language pathology assistants. Currently the CSHA northern SLP assistant representative is Romy Ibarra-Klein from San Mateo and the CSHA southern SLPA representative is Wendy Cazin from Capistrano Unified School District.

Recently, CSHA SLPA representatives completed an informal survey of many of California's approximately 400 licensed SLP assistants. Because the SLP assistant license and category are relatively new to the state, programs, employers, supervisors and paraprofessionals have a multitude of questions. If you have a question or comment on SLPA issues, forward to csha@csha.org/ .

The questions and answers below attempt to address many of the survey and other questions surrounding the utilization of speech paraprofessionals in California.

Why does California need SLP assistants?
Several years ago there was a debate in the profession as to the future need and demand for speech-language pathologists. CSHA after reviewing demographic data concluded early on that the "graying of America" and retirement ages of many professionals would reach a crisis stage starting in 2005. Efforts at expanding graduate programs would not even replace SLP retirees – let alone satisfy demand for additional SLP services as a result of early intervention and an aging population. Additionally, career ladders with paraprofessionals have been shown to be successful in bringing into the professions, bilingual and cultural diverse populations. Other professions have demonstrated that paraeducators and paraprofessionals are successful "extenders" of services as well as allowing for more efficient provision of services (i.e., PT assistants; teaching assistants, etc.).

Why did the California create a licensing system for SLPAs?
While health systems promote cross training and utilization of paraprofessionals -- appropriate training, duties, supervision and oversight have been major issues of concern. Some administrators have a history of utilizing low-wage personnel without adequate training. Thus CSHA sponsored AB 205 of 1998 that set forth provisions in state law for a SLP assistant with control and oversight by the Speech-Language-Pathology and Audiology [licensing] Board. See California's Business and Professions Code 2530, et. seq., and implementing CCR Title 16 regulations: http://www.slpab.ca.gov/laws/index.html/ and www.slpab.ca.gov/assistant.htm/**.**

Who can become a licensed SLP assistant? California SLPA licensing options:
1) AA degree from an approved SLPA Program; or B) SLPA AA degree program "equivalency"; or 3) a bachelor's degree from SLP program with 70 hours of University program clinical training or 70 hours "field experience" as part of an AA degree SLPA Program.

Can a licensed SLP assistant "assess" disorders?
No, the licensing law specifically prohibits certain duties for the SLPA including "evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising SLP." [B&P 1399.170.3]

While the licensing act includes definitions of supervision required as well as the duties authorized, but were does it clarify that a SLPA can perform feeding activities?

See the SLPAB licensing website under "Practice Issues": *"CCR 1399. 170.3 (h) defines duties that are outside the scope of responsibility of a SLP assistant and sets aside those duties that require a high level of technical skill or clinical acumen, including "swallow therapy with bolus material," this section refers to diagnostic procedures or a formal evaluations, not a routine tasks such as a prescribed feeding activities. Professionals report that in hospitals and other clinical facilities a number of individuals may become involved with assisting patients, who suffer from swallowing difficulties, with food intake, including, non-licensed personnel such as family members or caregivers, and other certified personnel such as nurses assistants. As such, the Board determined that routine feeding is a form of patient management that can safely be administered by a number of people, including SLP assistants."*

Can public schools employ licensed SLP assistants?

Yes, California Education Code 56363 (a) defines special education "designated instruction and services" (1) Language and speech development and remediation services may be provided by a speech-language pathology assistant as defined in section 2530.2 of the Business and Professions code (*i.e., SLPA licensing laws).*

The legislature mandated that SLPAB licensing regulations be adopted in collaboration with the State Department of Education, the Commission on Teacher Credentialing, and the Advisory Commission on Special Education. These regulations set forth standards and requirements for the adequate supervision of speech-language pathology assistants. [B&P Code 2538.1 (a)]

The licensing law allows for SLPA supervision by either a licensed SLP or a credentialed SLP.
[B & P Code 1399.170.15 (b)(1)].

Why is there confusion between licensed SLP assistants and a speech aides?

Public schools have a different law for speech aides than for those outside the public schools. Speech aides are authorized under the SLP licensing law with prior approval and the physical presence of the supervisor *[Title 16 Section 1399.154.2*]. A different education law authorizes speech aides under direct supervision if noted in the IEP but this law does not allow for an increase in *caseloads [Title 5 section 3051.1]*. The licensing law additionally states, "*This article shall not be construed to limit the utilization of a speech aide employed by a public school working under the direct supervision of a credentialed speech-language pathologist" as set forth in Title 16 Section* 3051.1(c) -- i.e., use of speech aide noted in IEP; no more than two per supervising SLP; cannot increase caseloads. [*B & P Code 2538.5*]

CSHA anticipates than when SLP assistants are available to public schools across the state, these confusing provisions for speech aides noted above will be revised.

Does the federal special education law include paraeducator standards?

IDEA of 2004 [20 USC] Section 1412 (a)(14) Personnel qualifications (B) Related Services and paraporofessionals. iii) a*llow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation or written policy, to be used to assist in the provision of special education and related services …*

Does the No Child Left Behind Act's paraeducator standards affect school speech paraprofessionals?

The federal education law has recently raised and established standards for states utilizing paras utilized for instructional services. This standard generally requires a AA degree or state level proficiency tests. Local public schools are struggling with these new federal standards and their interpretations.

NCLB Title I programs *(i.e., schools with substantial numbers of underprivileged children) under* 20 USC 6319 (c) and their requirements apply to all paraprofessionals directly funded by Title I and who provides instructional support and services (*including special education services that are instructional in nature*).

CA Ed Code 99231 (d): "*Paraprofessional" means a teachers aide, a teacher assistant, or a speech-language pathology assistant who is employed on either a full-time or part-time basis for the purposes of directly assisting with classroom instruction in math, reading, or sciences …*

CA Ed Code Section 45340 et seq: Instructional Aide Act: *" … a person employed to assist classroom teachers and other certified personnel … in instructional task ,,,, shall have demonstrated proficiency in basic reading, writing, and math skills … passing a district's proficiency test … ."*

Are all state agencies or programs authorized to utilize SLP Assistants?

Public Schools? Yes, authorized by Ed Code 56363(b)(1).

Note that some local public schools' personnel classifications do not to recognize licensed SLPAs and classify their speech paraprofessionals as "speech aides". Public schools utilizing a "speech aide" may need education as to CDE's Title 5 regulation section 3051.1(c) *services under direct SLP supervision and specified in the IEP, no more than two speech aides per SLP supervisor, and cannot increase SLP caseloads)* -- versus the utilization of a licensed SLP assistant under the B & P Codes and Title 16 regulations *(indirect supervision, no more than three per supervisor, no mention in law as to caseloads or IEP notation).*

Non-Public Schools or Non-Public Agencies (NPS/NPA)? Yes.
CDEN Title 5 Section 3064 (f) *"NPSs and NPAs shall comply with all of the laws and regulations governing the licensed professions, in particular thee provisions with respect to supervision. NPSs and NPAs may use assistants to the extent authorized by state and federal law. "* Note NPSs and NPAs are certified by the California Department of Education (CDE) and contract with public schools for services. [See also CDE Title 5 regulation 3001(s) & (z); 3064 (f); and 3065]

Regional Centers? Yes, if a state DDS waiver is obtained.
The CA Dept. of Developmental Disabilities (DDS) administers the state's IDEA Part C Early Start programs for infants and toddlers (*i.e., at risk of communication delays and/or with other disabilities such as autism).* DDS utilizes their Title 17 regulations created for the state's Laterman Act, for the Early Start Program. These regulations are outdated and currently do not list SLP assistants as a service provider. DDS can issue a "waiver" of the regulations under provisions and circumstances causing an "undue delay" in providing services. Alta Regional Center of Northern California and their SLP contractors have received waivers to utilize SLP assistants.

CSHA has been actively pursuing DDS regulation changes. Some Regional Centers appear to prefer to fund Associate Behavior Analyst rather than apply for a SLPA waiver. See DDS letter to Senator Aanestad re Regional Centers and SLPAs on page __ of this publication.

Hospitals and health facilities? Yes but reimbursement programs may not support use of SLPAs.
Health facilities often have substantial numbers of patients being reimbursed under the Medicare (elderly/disabled populations) and Medicaid (CA's Medi-Cal program for those below set income levels). Because these two programs do not yet have specific provisions for SLP assistants, facilities will not be able to utilize SLPAs for those patients.

CA Medi-Cal programs have services approved by federally approved State Plans. Federal Medicaid SLP definitions do allow for SLP services "under the direction of" but specific authority must be created and approved in the State Plan. CSHA is working to alter the State Plans for the various Medi-Cal programs such as the Fee-for-Service program as well as the school LEA program to specifically include the use of the licensed SLPA.

The federal Medicare program is administered by a regional Fiscal Intermediary (FI) which interprets and establishes reimbursement policies. The Medicare FI for the area including California has been advised that until there is an accepted nationwide standard for SLPAs, such services are not reimbursable. Members of the California ASHA Legislative Council continue to urge ASHA to officially adopt and implement national SLPA standards.

School LEA Medi-Cal Program currently does not authorize paraprofessionals under this program.
CSHA has a tentative commitment from the state's LEA Medi-Cal Ad Hoc Advisory Workgroup to address the inclusion of paras in the future.

As a licensed SLPA, can I be self-employed and work as an independent contractor?
Federal IRS and the State Employment Development Department (EDD) define an independent contractor as one who is not "controlled" and would appear to be in direct conflict with the licensing requirement for SLPA supervision. The SLP licensing office indicates when asked that SLPA may not be self-employed as independent contractors.

As a licensed SLPA, can I be a member of CSHA?

Yes, you can become a member of CSHA for $35 a calendar year. Apply online at CSHA's website. SLPA members are entitled you to all CSHA publications, reduced rates at CSHA CE events, and access to CSHA's resources. See CSHA's website page for SLPAs. Have a question -- email < csha@csha.org > for an individual response!

CALIFORNIA'S 58 COUNTIES

Research Report

Setting Standards on the TOEIC® Writing and Speaking Assessments for Internationally Trained Nurses

Richard J. Tannenbaum

November 2010

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Setting Standards on the TOEIC® Writing and Speaking Assessments for Internationally Trained Nurses

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Abstract

U.S. Citizenship and Immigration Services (a bureau within the Department of Homeland Security) requires that nurses who have completed their education and training outside the United States first satisfy an English language proficiency standard before being eligible for an occupational visa. The TOEIC® (Test of English for International Communication™) Listening and Reading Test is already recognized for this purpose. The TOEIC® Writing and Speaking assessments are now being considered as assessments that may satisfy the criterion addressing a candidate's English writing and speaking proficiency. In this study, 14 experts (nurses, supervisors, and administrators) participated in a standard-setting process to recommend passing scores for the TOEIC Writing and Speaking assessments.

Key words: TOEIC®, standard setting, passing scores, cut scores

Table of Contents

Page

Background 1

Method 1

Standard-setting Panelists 2

Pre-meeting Assignments 2

Standard-setting Procedures 4

Results 6

Recommended Cut Scores 6

TOEIC Writing Assessment. 6

TOEIC Speaking Assessment. 7

Final Evaluation Survey 7

Conclusions 9

Setting Final Cut Scores 10

References 13

Appendix 14

Notes 15

List of Tables

Page

Table 1. Panelist Demographics 3

Table 2. Writing: Standard-setting Results 7

Table 3. Speaking: Standard-setting Results 7

Table 4. Feedback on Standard-setting Process 8

Table 5. Comfort Level With Final Recommended Cut Scores 9

Table 6. Final Cut Score Recommendations 10

Background

U.S. Citizenship and Immigration Services (a bureau within the Department of Homeland Security) requires that nurses who have completed their education and training outside the United States first satisfy an English language proficiency standard before being eligible for an occupational visa. The Test of English for International Communication™ (TOEIC®) Listening and Reading Test is already recognized for this purpose and passing scores (cut scores) are already in place. The TOEIC® Writing and Speaking assessments are being considered as one pair of assessments that may satisfy the English writing and speaking proficiency requirements.

TOEIC® is a measure of general English language ability and consists of Reading, Listening, Writing, and Speaking assessments. The purpose of this standard-setting study was to recommend cut scores for the Writing and Speaking assessments, which may be added to the current list of the U.S. Departments of Education and Health and Human Services-approved English language assessments.

Method

Standard setting refers to a variety of systematic, judgment-based processes whose shared outcome is the identification of a minimum test score that separates one level of performance (understanding, competence, expertise, or accomplishment) from another (Tannenbaum, in press). Recent reviews of research on standard-setting approaches reinforce a number of core principles for best practice: careful selection of panel members and a sufficient number of panel members to represent varying perspectives, sufficient time devoted to develop a common understanding of the domain under consideration, adequate training of panel members, development of a description of each performance level, multiple rounds of judgments, and the inclusion of data, if available, to inform judgments (Brandon, 2004; Cizek, 2006; Hambleton & Pitoniak, 2006). These principles are consistent with the guidelines proffered by the *Standards for Educational and Psychological Testing* (AERA, APA, & NCME, 1999), which also values the explicit documentation of the methods and procedures followed to recommend cut scores. These principles and guidelines directly informed the design and implementation of the standard- setting process applied to the TOEIC Writing and Speaking assessments.

Standard-setting Panelists

Fourteen experts in the field of nursing served on the panel. All panelists were licensed registered nurses. Six panelists were staff nurses, three were supervisors of nurses, three were in administrative positions, and two were consultants. More than half of the panelists (9 of 14) had at least 18 years of nursing-related experience. Twelve of the panelists reported that English was not their first language, with the highest number, six, reporting that Tagalog was their first language. Half of the panelists had taken the Test of English as a Foreign Language™ (TOEFL®) assessment as part of their VisaScreen certificate process, CGFNS certificate, or licensure process. The majority of panelists reported working in a hospital setting. Table 1 presents a full description of the self-reported demographics of the panelists. (See the Appendix for their affiliations.)

Pre-meeting Assignments

Prior to attending the standard-setting study, the experts completed two assignments. One was to take the TOEIC Writing and Speaking assessments. Direct experience with the assessments is necessary for the experts to understand the scope of an assessment, what is and is not being measured, and the difficulty of the specific questions. (Before taking the assessment, each expert had signed a non-disclosure/confidentiality form.) The second assignment was to define the major tasks performed by nurses that required written communication skills and oral communication skills. For each task, the experts then were to write down two behavioral examples, one depicting a sufficient level of English ability for that task and one depicting an insufficient level. The purpose of the second assignment was to begin the process of focusing the expert's attention on a nonnative English speaking nurse-candidate who has minimally acceptable English writing skills and speaking skills; this candidate is referred to as a *just qualified candidate* (JQC*)*. The standard-setting process is designed to identify the TOEIC Writing (cut) score and Speaking (cut) score likely to be earned by the JQC.

Table 1

Panelist Demographics

Variable	*N*	%	Variable	*N*	%
Gender			*Current areas of practice**		
Female	13	93%	Critical care	1	7%
Male	1	7%	Emergency care	1	7%
Current Job Title			Long-term care	1	7%
Staff Nurse	6	43%	Community care	1	7%
Supervisor	3	21%	Medical/Surgical	3	21%
Administrator/Director	3	21%	Pediatrics	1	7%
Consultant	2	14%	Geriatrics	1	7%
Years of nursing-related experience			Obstetrics	1	7%
2-5	1	7%	Orthopedics	1	7%
6-9	3	21%	Neonatal intensive care	1	7%
14-17	1	7%	Other (Admin., Regulatory)	7	50%
18 or more	9	64%	*Certifications held**		
License held			Critical care	1	7%
Registered Nurse (RN)	14	100%	Emergency care	1	7%
Current practice setting			Long-term care	1	7%
Hospital	8	57%	Geriatrics	1	7%
Long-term care	1	7%	Neonatal intensive care	1	7%
Home health	1	7%	Trauma	1	7%
Medical office	1	7%	Other (Admin., Rehab., Telehealth)	3	21%
College of nursing	1	7%	*Region of the country*		
Other (Board of nursing, Recruitment)	2	14%	Northeast	5	36%
			South	8	57%
			West	1	7%

Table 1

Panelist Demographics (continued)

Variable	*N*	%	Variable	*N*	%
First language			*Took TOEFL®*		
Tagalog	6	43%	Yes	7	50%
Spanish	2	14%	No	7	50%
Chinese	1	7%	*Took TOEIC®*		
Malayalam	2	14%	Yes	1	7%
Yoruba	1	7%	No	13	93%
English	2	14%	*Took IELTS®*		
Nursing education/instruction in English			Yes	4	29%
Yes	11	79%	No	10	71%
No	3	21%			

Note. More than one response was permitted.

Standard-setting Procedures

A variation of a Performance Profile (Performance Sample) method (Zieky, Perie, & Livingston, 2008) was implemented for the Writing and Speaking assessments. The standard setting was done first for the Writing assessment and then for the Speaking assessment. A general description of the method is presented. Panelists discussed the particular assessment and then worked both in small groups and as a whole panel to define the English language skills expected of a JQC. Panelists were trained in the standard-setting process and given an opportunity to practice making their judgments; all panelists signed a training evaluation form confirming their understanding and readiness to proceed.

Panelists reviewed the questions and corresponding scoring rubrics. They then reviewed samples of test-taker responses to the questions. A test taker's set of responses to the questions formed a profile; the weighted sum of the question scores is that test taker's total score. The Writing assessment consists of eight questions. A test taker's written response to each of the eight questions constitutes that test taker's response profile. The Speaking assessment consists of 11 questions, and so a test taker's spoken responses to the 11 questions constitutes a response profile. Twenty-four response profiles for Writing were

presented to the panelists. The profiles were sampled to represent a range of the most frequently occurring total scores. The samples ranged from a low of 7.8 raw points to a high of 26 (the maximum possible raw score). The Writing profiles (the actual written responses) were presented in order by the total score (the weighted sum of the question scores), from lowest to highest. Twenty-one response profiles for Speaking were presented to the panelists. These profiles also were sampled to represent a range of the most frequently occurring total scores. The responses were audio files that were broadcast to the panelists in total score order, from lowest to highest. The Speaking profiles scores ranged from a low of 6.9 raw points to a high of 24 (the maximum possible raw score). Initially, every third profile was played, and the panelists were asked to consider where the cut score may be located. They then were able to ask for additional profiles to be broadcast to help inform their cut score decision; four additional profiles were played. Each panelist was also provided with a printed sheet (one for the Writing assessment and one for the Speaking assessment) that showed the question scores and the total score for each profile to facilitate their judgment process.

Each panelist was asked to judge the total score that a JQC would most likely earn on each assessment. The total score for Writing ranges from 0 to 26 raw points; for Speaking the range is 0 to 24 raw points. Panelists were able to select any total score (whole number or half-point increments) within the legitimate range for the assessment, even if there was not a profile that illustrated that specific score. For example, the total score for one writing profile was 10.9 raw points, the next higher writing profile was 11.2 raw points, and the next higher was 12.6 raw points. Still, a panelist could judge, for example, that a JQC would likely earn a score of 11.0, 11.5, 12, or 12.5 raw points. The sampled profiles were intended to anchor the meaning of the total scores, not to restrict judgments.

Three rounds of judgments took place, with feedback and discussion between rounds. After Round 1, each panelist received his or her individual recommendations and a summary of the panel's recommendations (average cut score, lowest and highest cut scores, and standard deviation of cut scores). Panelists shared their judgment rationales and were presented with the average question scores and average section score earned by test takers from a recent administration. The test takers reflected the general population of test takers, not those who necessarily were taking the assessments for potential entrance

into the nursing profession. Panelists were given the opportunity to change their Round 1 judgments. The Round 2 feedback was the same as in Round 1, with the addition of the percentages of test takers who would meet or exceed the average Round 2 cut score recommendations. Following further discussion, the panelists had a final opportunity (Round 3) to change their recommended cut scores.

Results

The first set of results summarizes the panel's standard-setting judgments by round for each of the TOEIC assessments. This is followed by a summary of the panel's responses to the final evaluation survey.

Recommended Cut Scores. Tables 2 and 3 summarize the results of the standard setting for each of the three rounds of judgments for TOEIC Writing and Speaking assessments, respectively. The results are presented in raw scores. Panelists worked in the raw score metric for the standard-setting process. (The scaled score equivalents are provided in the conclusion section). The recommended cut score at the end of each round is the average of each panelist's individual recommendations. The final recommended cut score is the Round 3 average.

TOEIC Writing Assessment. The maximum raw score for the Writing assessment is 26 points. The panel's average recommendation for Writing (Table 2) was fairly consistent across the three rounds: 18.79 (Round 1), 19.17 (Round 2), and 18.99 (Round 3). The variation (standard deviation) in panelists' judgments was the highest in Round 1 and decreased significantly in Round 2 and 3. Round 1 judgments occur before feedback and discussion, so it is common for the first round to display the most variation in judgments. The standard error of judgment (SEJ) is one way of estimating the reliability of the judgments.[1] It indicates how close the cut score would likely be to the current average cut score for other panels similar in composition and experience to the current panel and similarly trained in the same standard-setting method. A comparable panel's cut score would be within 1 SEJ of the current mean cut score 68% of the time and within 2 SEJs 95% of the time. For example, other panel's cut score recommendations would likely be between 18.85 and 19.13 (1 SEJ of 18.99) 68% of the time and between 18.71 and 19.27 (2 SEJs of 18.99) 95% of the time.

Table 2

Writing: Standard-setting Results

	Round 1	Round 2	Round 3
Average	18.79	19.17	18.99
Minimum	10.50	17.90	18.00
Maximum	23.00	21.00	20.00
Standard Deviation	2.90	0.74	0.52
Standard Error of Judgment	0.77	0.20	0.14

TOEIC Speaking Assessment. The maximum raw score for the Speaking assessment is 24 points. The panel's average recommendation for Speaking (Table 3) decreased after Round 1 (20.11), but remained fairly consistent across Rounds 2 (18.99) and 3 (18.25). The most variability, as to be expected, occurred in the first round. Other comparable panel's cut score recommendations would likely be between 17.91 and 18.59 (1 SEJ of 18.25) 68% of the time and between 17.57 and 18.93 (2 SEJs of 18.25) 95% of the time.

Table 3

Speaking: Standard-setting Results

	Round 1	Round 2	Round 3
Average	20.11	18.99	18.25
Minimum	17.00	16.80	16.60
Maximum	22.50	21.00	20.50
Standard Deviation	1.70	1.12	1.28
Standard Error of Judgment	0.45	0.30	0.34

Final Evaluation Survey. Procedural evidence of validity (Kane, 1994) was collected from the final set of evaluation questions. Table 4 summarizes the panel's feedback regarding the general standard-setting process. The majority of panelists *strongly agreed* that the pre-meeting assignment was useful, they understood the purpose of the standard-setting study, the explanations and training provided were clear and adequate, the opportunity for feedback and discussion between rounds was helpful, and the standard-

setting process was easy to follow. These results support the quality of the standard-setting implementation.

The panelists also were asked to indicate the extent to which each of the following four factors influenced their standard-setting judgments: the definition of the JQC, the between-round discussions, the cut scores of the other panelists, and their own professional experience. All 14 panelists identified the between-round discussion as *very influential;* 13 panelists identified the cut scores of others and their own professional experience as being *very influential*; and 12 panelists identified the definition of the JQC as being *very influential*.

Table 4

Feedback on Standard-setting Process

	Strongly Agree		Agree		Disagree		Strongly Disagree	
	N	%	*N*	%	*N*	%	*N*	%
The homework assignment was useful preparation for the study.	12	86%	2	14%	0	0%	0	0%
I understood the purpose of this study.	14	100%	0	0%	0	0%	0	0%
The instructions and explanations provided by the facilitators were clear.	13	93%	1	7%	0	0%	0	0%
The training in the standard-setting method was adequate to give me the information I needed to complete my assignment*.	13	100%	0	0%	0	0%	0	0%
The explanation of how the recommended cut scores are computed was clear.	14	100%	0	0%	0	0%	0	0%
The opportunity for feedback and discussion between rounds was helpful.	13	93%	1	7%	0	0%	0	0%
The process of making the standard-setting judgments was easy to follow.	13	93%	1	7%	0	0%	0	0%

Note. One panelist did not respond.

Table 5 presents the panel's comfort level with the final recommended cut scores. This may be considered another aspect of procedural validity, addressing more specifically

the outcome of the standard-setting process. The majority of panelists (13 of 14) reported being *very comfortable* with the Writing cut score. Most panelists (8 of 14) also reported being *very comfortable* with the Speaking cut score and four reported being *somewhat comfortable.* However, one panelist reported being *somewhat uncomfortable* and one reported being *very uncomfortable* with the cut score for Speaking.

The panelists were also asked to indicate if they believed that the recommended cut scores were *about right*, *too low*, or *too high*. All 14 panelists thought that the Writing cut score was *about right.* Ten thought that the Speaking cut score was *about right*, but two each thought it was either *too low* or *too high*. The one panelist who reported being *very uncomfortable* with the recommended cut score for Speaking reported that the cut score was *too high*.

Table 5

Comfort Level With Final Recommended Cut Scores

	Very Comfortable		Somewhat Comfortable		Somewhat Uncomfortable		Very Uncomfortable	
	N	%	N	%	N	%	N	%
Writing	13	93%	1	7%	0	0%	0	0%
Speaking	8	57%	4	29%	1	7%	1	7%

Conclusions

The U.S. Citizenship and Immigration Services (within the Department of Homeland Security), requires that nurses who have completed their education and training outside the United States first satisfy an English language proficiency standard before being eligible for an occupational visa. The purpose of this standard-setting study was to recommend cut scores for the TOEIC Writing and Speaking assessments, which may be added to the current list of approved English language assessments.

A variation of a Performance Sample method was implemented. Three rounds of judgments, with feedback and discussion occurred; the feedback included data on how test takers performed on the questions and the percentage of test takers who would have met or exceeded the cut score for each assessment. Table 6 presents the final cut score recommendations, both in raw score and scaled score metrics.

Table 6

Final Cut Score Recommendations

	Raw Score	Scaled Score (max. 200)
Writing	18.99	150
Speaking	18.25	160

Note. Raw scores were rounded to the next highest legitimate value before converting to a scaled score.

The responses to the final survey support the validity of the standard setting. The majority of the panelists indicated, for example, that the standard-setting training had prepared them, the provided instructions and explanations were clear, and the process was easy to follow. Additional evidence of procedural validity had been collected immediately following the specific training on the standard-setting approach. All panelists had indicated that they were ready to proceed to make their first round of standard-setting judgments. Collectively, these results support the quality of the standard-setting implementation.

Setting Final Cut Scores

The standard-setting panel is responsible for *recommending* cut scores. Policymakers consider the recommendation, but are responsible for *setting* the final cut scores (Kane, 2002). In the current context, the primary policymaker is the U.S. Citizenship and Immigration Services (within the Department of Homeland Security).

The full range of policymakers' needs and expectations cannot be represented during the process of recommending cut scores. Policymakers, therefore, have the right and responsibility of considering both the panel's recommended cut scores and other sources to information when setting the final cut scores (Geisinger & McCormick, 2010). The recommended cut scores may be accepted, adjusted upward to reflect more stringent expectations, or adjusted downward to reflect more lenient expectations. There is no *correct* decision; the appropriateness of any adjustment may only be evaluated in terms of its meeting the policymaker's needs. Two critical sources of information to consider when setting cut scores are the standard error of measurement (SEM) and the standard error of

judgment (SEJ). The former addresses the reliability of test scores and the latter the reliability of panelists' cut score recommendations.

The SEM allows policymakers to recognize that a test score—any test score on any test—is less than perfectly reliable. A test score only approximates what a test taker *truly* knows or *truly* can do on the test. The SEM, therefore, addresses the question: "How close of an approximation is the test score to the *true* score?" A test taker's score likely will be within one SEM of his or her true score 68% of the time and within two SEMs 95% of the time. The scaled score SEM for TOEIC Writing is 20 and for Speaking it is 15.

The SEJ allows policymakers to consider the likelihood that the current recommended cut score would be recommended by other panels of experts similar in composition and experience to the current panel. The smaller the SEJ, the more likely that another panel would recommend a cut score consistent with the current cut score. The larger the SEJ, the less likely the recommended cut score would be reproduced by another panel. The SEJ, therefore, may be considered a measure of credibility, in that a recommendation may be more credible if that recommendation were likely to be offered by another panel of experts. An SEJ no more than one-half the size of the SEM is desirable because the SEJ is small relative to the overall measurement error of the test (Cohen, Kane, & Crooks, 1999). The SEJs in this study were in the raw score metric. The raw-to-scaled score conversion table was used to approximate the average scaled score change due to the SEJs. The SEJs for Writing and Speaking resulted in an average scaled score change less than one-half that of the scaled SEMs.

In addition to measurement error metrics (e.g., SEM, SEJ), policymakers should consider the likelihood of classification error. That is, when adjusting a cut score, policymakers should consider whether it is more important to minimize a false positive decision or to minimize a false negative decision. A false positive decision occurs when a test taker's score suggests one level of ability, but the person's actual level of ability is lower (i.e., the person does not possess the required skills). A false negative occurs when a test taker's score suggests that the person does not possess the required skills, but the person actually does possess those skills. Raising cut scores reduces false positives, but increases false negatives; the reverse occurs when cut scores are lowered. Policymakers need to

consider which decision error to minimize; it is not possible to eliminate both types of decision errors simultaneously.

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Appendix

Panelist Affiliations

Rita K. Adeniran	Hospital of the University of Pennsylvania
Virginia C. Alinsao	Vair, LLC
Gemma Andaya	Hospital of the University of Pennsylvania
Melanie Gabriel	Hospital of the University of Pennsylvania
Silvia Gallardo	National Association of Hispanic Nurses (NAHN)
Zulma Jimenez	Association Rehabilitation Nurses
Cindy C. Kiamko	University of Maryland Medical Center
Yvonne H. Nathan	State University of New York
Victoria Navarro	Johns Hopkins International
Eryl Quilao	Hospital of the University of Pennsylvania
Omana Simon	National Association of Indian Nurses of America
Ann Varghese	National Association of Indian Nurses of America
Lijie Wang	University of Maryland Medical Center
Concheeta A. Wright	District of Columbia Board of Nursing

Notes

[1] The standard error of judgment (SEJ) assumes that panelists are randomly selected from a larger pool of panelists and that judgments are independent. It is seldom the case that panelists may be considered randomly sampled, and only the first round of judgments may be considered independent. The SEJ, therefore, likely underestimates the uncertainty associated with cut scores.

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HEARING AID DISPENSERS PRACTICE COMMITTEE MEETING MINUTES
July 26, 2010

East End Complex
1500 Capitol Avenue
Hearing Room #72.167
Sacramento, CA
(916) 263-2666

Committee Members Present
Deane Manning, Hearing Aid Dispenser
Sandra Danz, Hearing Aid Dispenser
Rodney Diaz, M.D.
Alison Grimes, AuD., Audiologist
Robert Green, Au.D. Audiologist

Staff Present
Annemarie Del Mugnaio, Executive Officer
LaVonne Powell, Legal Counsel
Debbie Newcomer, Staff
Kathi Burns, Staff
Cynthia Alameda, Staff
Yvonne Crawford, Staff

Board Members Present
Carol Murphy, M.A.
Lisa O'Connor, M.A.

Guests Present
Tricia Hunter, Hearing Health Care Providers California (HHP CA)
Cindy Peffers, HHP CA
Jody Winzelberg, California Academy of Audiology (CAA)
Marcia Raggio, CAA
Rebecca Bingea, UCSF

I. Call To Order

Chairperson Manning called the meeting to order at 9:07 a.m.

II. Introductions

Those in attendance introduced themselves.

III. Proposed Regulation Amendments Pertaining to Continuing Education Requirements for Licensed Hearing Aid Dispensers – California Code of Regulations Section 1399-140-1399.143

Ms. Del Mugnaio reviewed the discussion and proposals that were presented at the previous board meeting regarding Section 1399.140 (a), which would increase the number of Continuing Education (CE) hours required for the license renewal of hearing aid dispensers to twelve (12) hours per year. She also

reviewed the proposed limit of three (3) hours in indirect and related course content areas and another limit of three (3) hours for self-study courses.

Ms. Del Mugnaio also reviewed subsection 1399.140 (e), which currently provides a grace period of one-year if a licensed dispenser is unable to completed the requisite number of CE hours for license renewal in the previous year. She suggested striking subsection (e) since the regulations authorize a waiver for extenuating circumstances.

It was noted that most boards/bureaus have a two-year renewal cycle and thus provide a full twenty-four (24) month time frame for completing the requisite CE. Committee members commented that it may be difficult to find non-manufacturer hearing aid courses within a one-year period.

Ms. Del Mugnaio stated that the current exemption requirement (medical, health, military, and hardship) is available and specified in regulation for speech-language pathologists and audiologists. She indicated that other boards and bureaus have different exemptions/allowances/grace periods and that perhaps the CE exemptions for hearing aid dispensers should be more in line with other licensing provisions.

The Committee discussed the option of striking subsection (e), but was concerned that removing the grace period and increasing the CE renewal requirements to twelve (12) hours per year was too burdensome to enact for the hearing aid dispenser population at one time. There was also concern expressed that both the grace period and the increase in renewal hours could lead to opposition from the professional hearing-aid dispenser community.

Ms. Del Mugnaio presented information regarding the proposed amendments to Section 1399.141 (c) regarding the course approval process and specified timeframes. She indicated that subject matter experts would be employed to review hearing aid courses offered by manufacturers to ensure the course content was not marketing based.

Ms. Powell suggested edits to the language regarding the provider appeal process and indicated that the Executive Officer may be the responsible party for reviewing denials of provider applications.

Motion to approve 1399.140 (a) (1-2), 1399.140.1, 1399.141, 1399.142, and 1399.143 as amended to increase the number of CE hours that a hearing aid dispenser must accrue in one-year to: twelve (12) hours, with a limitation of three (3) hours in self study (excluding live and on-demand courses) and a limitation of three (3) hours in related or indirect client care courses. The amendments include CE definitions for direct, indirect, and related client care course work, and provider and course submission requirements.

M/S/C: Green/Diaz, Opposed: Grimes

IV. Legislative Proposal re Song-Beverly Consumer Warranty Act (California Civil Code Section 1793.02)

Chairperson Manning referenced the Song-Beverly legislative proposal included in the meeting packet that addressed provisions within the Song-Beverly Act related to the definition of fitting and adjustments to hearing aids and the imposed timeframes for consumers seeking a refund. Chairperson Manning indicated that the proposal includes a definition of the fitting period as a 30-day period wherein a consumer has possession of the purchased hearing aid. However, the 30-day period does not include any period of time where the hearing aid is out of the user's possession for a remake or adjustments and, as such, the 30-day time period may or may not be consecutive. Once

the hearing aid is returned to the user, the 30-day time period resumes, but does not restart at day one.

Additionally, Chairperson Manning explained issues surrounding circumstances where a client neglects to pick up the hearing aid from the dispenser once notified or situations where the dispenser fails to contact the client in a timely manner that the hearing aid is ready for pick up. He stated that the warranty period should not restart until the hearing aid is in the user's possession; however, issues regarding failing to retrieve the hearing aid upon repair must be addressed to avoid lengthy delays where the hearing aid is not in use. Chairperson Manning mentioned that other states have addressed this; for example, if the hearing aids are not picked up within seven days, the 30-day warranty period resumes. He indicated that another issue is when a dispenser delays the fitting/servicing of a hearing aid.

Ms. Del Mugnaio stated that the tolling period would address the issue where the provider has not been reasonable in allowing the client to return to have the aid adjusted; therefore, appropriate tolling language could be crafted by regulation.

Chairperson Manning expressed concern related to the consumer being aware of their rights when the fitting of the hearing aid is delayed by the dispenser.

Ms. Del Mugnaio indicated that the consumer rights related to this matter would be included in the warranty information provided to the consumer.

The Committee agreed that the use of the terminology "right of return," instead of "warranty period," is more appropriate in describing the specified provisions. Specific consumer issues, the importance of counseling the consumer, and clearly defining the consumer's rights and responsibilities were discussed.

Ms. Del Mugnaio explained that Song-Beverly in its current form is nebulous and difficult to enforce, and has been interpreted different ways (including interpretations by the Attorney General's Office). Therefore, the Board should clearly define the return rights of the consumer by regulation, as this will assist the consumer and the provider in complying with said terms. She also indicated that it is the provider's responsibility to communicate the terms to the consumer in a manner that they can understand.

Mr. Green proposed that there be an addendum to the purchase receipt to document the 30-day warranty period.

Ms. Del Mugnaio referenced the sample receipt drafted by Mr. Green, as included in the meeting packet, and indicated that use of a receipt similar to the draft document would be helpful documentation for the provider. She also commented that the specified dates of service and delivery or pick-up noted included in the draft document would assist Board staff in resolving complaints. Discussion ensued regarding the proposed receipt.

Ms. Powell suggested that the Board may want to consider changing the Song-Beverly Consumer Warranty Act such that the Board would be authorized to develop regulations to address specific return and refund provisions, which could then be amended as necessary.

The Committee directed Ms. Del Mugnaio and Ms. Powell to draft proposed legislation with exclusionary Song-Beverly language for the Committee to review at the next meeting.

Ms. Del Mugnaio suggested that the Committee draft regulatory language to implement the legislative authority, including defining the right of return period, exclusions, and non-refundable fees.

In response to questions related to non-refundable fees, discussion ensued regarding unbundling of fees.

Chairperson Manning explained that this issue could be addressed in the regulations.

V. Use of the Term Audioprosthologist by Hearing Aid Dispensers

Ms. Del Mugnaio explained the history and legal issues related to the use of the term "Audioprosthologist." She discussed the legal parameters surrounding use of the term in advertisements and explained the individual protections regarding freedom of speech, Fifth Amendment laws, and consumer protection laws. She stated that prior discussions with the former Board surrounded the possibility of conducting a formal survey of consumers with the intended goal of determining the average consumer's understanding of the term "Audioprosthologist." Ms. Del Mugnaio stated that the Board did not have the resources at the time to conduct a large-scale formal survey and, therefore, did not pursue further research. Ms. Del Mugnaio also stated that the Board has not received any consumer complaints regarding the use of the term "Audioprosthologist," and thus did not believe at this point that the advertising of the term has posed a significant consumer risk.

The Committee decided to table this matter, as immediate action regarding the issue was not warranted.

The Committee adjourned at 10:25 a.m.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD
2005 EVERGREEN STREET, SUITE 2100, SACRAMENTO, CA 95815
PHONE (916) 263-2666 FAX (916) 263-2668 WWW.SPEECHANDHEARING.CA.GOV

FULL BOARD MEETING MINUTES
July 26, 2010
East End Complex
1500 Capitol Avenue
"Hearing Room #72.167"
Sacramento, CA

Board Members Present
Lisa O'Connor, M.A., Chairperson
Alison Grimes, Au.D., Vice Chairperson
Sandra Danz, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Carol Murphy, M.A.,
Rodney Diaz, M.D.
Robert Green, Au.D.
Monty Martin, M.A.

Staff Present
Annemarie Del Mugnaio, Executive Officer
LaVonne Powell, Legal Counsel
Kathi Burns, Staff
Cynthia Alameda, Staff
Yvonne Crawford, Staff
Debbie Newcomer, Staff

Guests Present
Tricia Hunter, Hearing Health Care Providers California (HHP CA)
Cindy Peffers, HHP CA
Jody Winzelberg, Director of Rehabilitative Services Lucile Packard Children's Hospital at Stanford
Marcia Raggio, California Academy of Audiology (CAA)
Rebecca Bingea, University of California, San Francisco (UCSF)
Robert Powell, California Speech-Language-Hearing Association (CSHA)
Erica Kano, Executive Staff, Department of Consumer Affairs (DCA)
Ryan Arnold, DCA, Legislative and Policy Review
Tim Shannon, HHP CA
Barry Brokaw, CAA
Randy Sager, HHP CA
Bill Barnaby, CSHA
Luis Farias, Deputy Director, Communications, DCA

I. Call to Order

Chairperson O'Connor called the meeting to order at 10:40 a.m.

II. Introductions

Those in attendance introduced themselves.

III. Approval of Meeting Minutes for May 26-27, 2010 Hearing Aid Dispensers Committee Meeting, Audiology Practice Committee Meeting & Full Board Meeting Minutes

The Board discussed minor edits to the practice committee and full board meeting minutes.

M/S/C: Grimes/Green

The Board voted to approve the meeting minutes as amended.

IV. English Language Competency as a Prerequisite to Licensure and the Proposal for Conducting a Standard-Setting Study for the Test of English for International Communication (TOEIC) Examination - Attendance from Eileen Tyson and Feng Yu from the Educational Testing Service

Ms. Murphy provided a brief summary of her prior report given at the full board meeting on May 26, 2010, which provided background on the Board's efforts to establish entry-level licensing standards and evaluation processes for internationally trained applicants. As a result of previous discussion, Eileen Tyson and Feng Yu of Educational Testing Services (ETS) attended the meeting, at the Board's request, to provide clarification on standard-setting concerns as identified by the Board. Ms. Tyson and Mr. Yu recommended that in order to establish a stable, credible and appropriate minimum passing score for the varied professional settings where speech-language pathologists provide services in California, the Board should consider engaging in the formal standard-setting process. Ms. Tyson and Mr. Yu provided the Board with a brief explanation of the formal standard-setting process that, as facilitated by ETS staff, utilizes a panel of experts charged with identifying minimum standards of English language proficiency. Ms. Tyson and Mr. Yu communicated the possibility of ETS assuming a portion of the overall cost of the process. The Board requested specific information on the length of time required to complete the process, the resources needed, and the cost associated with the formal standard setting process. Ms. Tyson and Mr. Yu estimated they could provide the Board with the requested information within three weeks.

Chairperson O'Connor inquired about whether other states have approached ETS about setting standards for an English language proficiency examination.

Ms. Tyson stated that ETS is usually approached by state associations or national councils of state boards.

Ms. Del Mugnaio inquired of Chairperson O'Connor whether the American Speech-Language-Hearing Association (ASHA) may be interested in working with ETS to conduct a standards-setting workshop for the TOEIC examination.

Chairperson O'Connor agreed to discuss the issue with ASHA.

V. Executive Officer's Report

A. Budget Update

Ms. Del Mugnaio referenced the budget projections for both the Speech-Language Pathology and Audiology (SLPA) budget and the Hearing Aid Dispensers/Dispensing Audiology (HAD) budget. She stated that the expenditures for the SLPA budget are extremely high in relation to the budget appropriation such that spending restrictions for the budget year must be enforced. Ms. Del Mugnaio indicated that, in contrast, the HAD budget appropriation is more then sufficient to provide for the operating expenses. However, she indicated the fund balance for the HAD fund is not solvent, as operating costs have exceeded licensing revenue for the past few years and that ultimately the HAD fund must collect additional revenue by way of increasing fees.

B. **Status of Proposed Regulations**

1. **Dispensing Audiologists Renewal Fee/Continuing Professional Development Amendments (California Code of Regulations Sections - 1399.157, 1399.160.3-1399.160.6)**

Ms. Del Mugnaio explained that the Board adopted the amended language at its May26-27, 2010 Board meeting; however, she stated that after consulting with the DCA Budget Office and Executive Staff, she was advised that the language should be adopted by emergency in order for the provisions to take effect immediately upon filing and so that the necessary licensing renewal revenue could begin to be collected from dispensing audiologists. Ms. Del Mugnaio stated that filing the regulations by emergency will also clarify the continuing professional development requirements for dispensing audiologists.

M/S/C: Grimes/Green

The Board voted to approve the filing of the regulation amendments (California Code of Regulations Sections 1399.157,1399.160.3-1399.160.6) on an emergency bases.

2. **License renewal Requirements –Retroactive Fingerprinting – (Adopt California code of Regulations Section- 1399.157.3)**

Ms. Del Mugnaio stated that the language regarding retroactive fingerprinting was adopted by the Board at a prior meeting; however, the regulations have not been filed with the Office of Administrative Law (OAL). She stated that staff is currently working on transition issues surrounding the merger, and that the regulations will be filed once the emergency regulations regarding dispensing audiologists have been submitted to OAL.

3. **Regulatory Proposal Regarding Audiologists' Role in Cochlear Implant Fitting and Mapping (California Code of Regulations Section 1399.150.2-Definitions)**

Ms. Del Mugnaio stated that the proposal regarding the audiologists role in cochlear implant fitting and mapping was adopted at a previous meeting and that the regulation package will be filed once the emergency regulations have been secured.

4. **Consumer Protection Enforcement Initiative (California Code of Regulations 1399.150.3, 1399.151, 1399.156, & 1399.156.5)**

Ms. Del Mugnaio distributed the draft language and stated that the Board has reviewed a prior version of the regulatory amendments at its May 27, 2010 Board meeting which would implement by regulation the unprofessional conduct provisions formerly contained in Senate Bill 1111. However, the draft language was changed substantially and is still pending legal review. Ms. Del Mugnaio indicated that the final proposed language will be prepared for the next Board meeting at which time the Board may take formal action.

C. Operational Updates - Budget Impasse/Staff Relocation

Ms. Del Mugnaio stated that due to the budget impasse, several spending restrictions are in place, including travel, supplies, payment of vendor invoices, payment or execution of contracts, and most other operational expenses. She indicated that the Board must be extremely frugal with its resources until such time that a budget is passed.

VI. Chairperson's Report

California Commission on Teacher Credentialing Special Education Credentialing Reform

Chairperson O'Connor reported on the Board and Committee Chair Teleconference with the Department of Consumer Affairs' (DCA) Executive Staff conducted on July 13, 2010. DCA Executive Staff updated all participating chairpersons on administrative issues of importance to the Department. The topics discussed included anticipated impact of the Federal Health Care Reform, SB 1441 - Uniform Standards Implementation, Budget Impasse, Board Member Vacancies, Licensing Reform, Internal Audit of the Maximus Contract for Drug Testing, and Agency Review of Regulation Packages.

Chairperson O'Connor provided an update regarding the California Commission on Teacher Credentialing Special Education Credentialing Reform. She reported that the Communication Development Credential was amended to remove the references to "medical terminology" (i.e., clinical) and was set for final action on September 30, 2010.

VII. Practice Committee Reports

A. Hearing Aid Dispensers Committee Report and Recommendations for Proposed Regulatory Amendments for Continuing Professional Development Provisions, Modifications to the Song-Beverly Consumer Warranty Act, Use of the Term Audioprosthologists by Licensed Hearing Aid Dispensers

Mr. Manning provided an overview of the matters discussed at the Hearing Aid Dispensers Committee Meeting and outlined the recommendations of the Committee before the Board (included under the Hearing Aid Dispensers Committee Meeting Minutes).

VIII. Department of Consumer Affairs Director's Report

Erica Kano provided the Director's Report to the Board on behalf of the DCA Executive Office. Ms. Kano highlighted issues previously addressed in Chairperson O'Connor's report on the July 13, 2010 Board and Committee Chair Teleconference. Additionally, Ms. Kano discussed the Consumer Protection Enforcement Initiative budget change proposal, which included a non-sworn investigator position for the Board. Further, the proposal included Department funding for the development and implementation of a replacement applicant, licensing, and enforcement tracking system (BreEZe). The Board accepted Ms. Kano's offer to schedule a presentation for the Board on BreEZe by the Department's Chief Information Officer, Debbie Balaam.

IX. Proposed Legislation/Regulation Amendments

B. **Senate Bill 1489 - Negrete-McLeod. Omnibus Submission - Amendments to AB 1535/ Amendments to Business and Professions Code Section 2539.6 & 3365.5 – Conditions for Referral for Dispensing Licensees**

Ms. Del Mugnaio provided a brief recap on SB 1489, the omnibus bill carrying non-controversial clean-up language for the Board regarding AB 1535. Ms. Del Mugnaio reported that there was no formal opposition to the bill at this time.

C. **Assembly Bill 2072 – Mendoza. Hearing Screenings; Resources and Services**

Ms. Del Mugnaio briefly summarized the provisions of the bill that provide for the development and dissemination of resource materials to parents of children who are identified with a hearing loss at a follow-up appointment with an audiologist after failing the newborn hearing screening. Ms. Del Mugnaio updated the Board on the most recent amendments of June 9, 2010, which identified the National Institute on Deafness and other Communication Disorders as the source of the resource materials, which would relieve the fiscal burden on the state or individual audiologists to produce new materials. The recent amendments also removed ambiguous language referencing "other related professionals."

Vice Chairperson Grimes stated that she strongly favored a partnership between the California Department of Education, California audiologists, and the California Newborn Hearing Screening Program to develop parent resource materials on communication options for deaf or hearing-impaired children. Vice Chairperson Grimes reported that when the Newborn Hearing Screening Program was established in 2000, one of the program's responsibilities was the development of resource materials for parents of children who are diagnosed with a hearing loss. She reported that the limited educational materials in current circulation contain statements that are not supported by the most recent data/research regarding hearing intervention. Vice Chairperson Grimes further stated that the response to the lack of available educational information has resulted in individual clinics collecting resource material from varied nationwide sources for dissemination to parents.

M/S/C: Grimes/Green

Vice Chairperson Grimes made a motion that a letter be sent to the Newborn Hearing Screening Program citing the responsibility vested in the program to develop and provide adequate resource materials for parents of children who are diagnosed with a hearing loss after failing the newborn hearing screening. She further recommended that the Board's letter bring attention to both the lack of adequate resource materials, as well as the inaccuracies in the existing resource documentation. Vice Chairperson Grimes concluded by recommending that the Board invite representatives from the Newborn Hearing Screening Program to attend the next Board meeting to discuss the consumer protection issues raised regarding inadequate educational resource materials for parents, and to request an overview of the implementation and effectiveness of the Newborn Hearing Screening Program.

D. **Senate Bill 1172 Negrete-McLeod. Regulation Boards/Diversion Programs – Review Revised Disciplinary Guidelines Regarding Substance-Abusing Healing Arts Licensees and Related Amendments**

Ms. Del Mugnaio reported that the task force assigned to the Uniform Standards on Substance Abuse resulting from SB 1441 continues to meet regarding compliance issues and is still finalizing their recommendations for the Committee. As a result, Ms. Del Mugnaio advised the Board to delay adopting language until the formal recommendations are approved by the Committee. In the

meantime, Board staff will continue to work on updating the disciplinary guidelines for review by the Board.

E. **Senate Bill 1282 – Steinberg. Applied Behavior Analysts**

Ms. Del Mugnaio reported that due to significant concerns and controversy over the provisions of SB 1282, the author elected not to pursue the proposed legislation. The bill was amended into a health care coverage bill with no direct impact or overlap with the profession of speech-language pathology.

F. **Assembly Bill 2382 – Blumenfield. California State University Doctor of Physical Therapy Degrees**

Ms. Del Mugnaio reported that AB 2382 amends the master plan for the California State University (CSU) system to award the doctorate degree in physical therapy. The University of California system will continue to be the state educational system awarding doctorate degrees; however, the under the provisions of AB 2382, the CSU would be authorized to award a clinical doctorate in physical therapy.

G. **AJR 31 - Buchanan. Special Education Funding**

Ms. Del Mugnaio reported that the resolution passed which encouraged the Federal Government to enact HR 1102 and other special education funding bills pending before Congress in order to fully fund special education.

H. **Legislation of Interest to the Board**

Ms. Del Mugnaio reported that Negrete McLeod's SB 294 (Department of Consumer Affairs - Regulatory Boards) identifies the sunset date of the newly merged Board for January 1, 2014, unless extended. The provisions of SB 294 require that the Board provide a Sunset Review Report to the Joint Committee of the Assembly Business and Professions Committee and Senate Business, Professions and Economic Development Committee in September of 2012. Ms. Del Mugnaio reported that she would provide a copy of the prior report completed in 2006 for review at the Board meeting scheduled for January 2011.

X. **Entry Level Licensing Standards for Audiologists and 4th year Audiology Doctoral Students completing the Required Professional Experience (Review Business and Professions Code Section 2532.25)**

Ms. Del Mugnaio explained that currently this law requires a 12-month externship. This is problematic as some programs calculate completion of the 4th year in hours, not months, and the hours do not always total a full 12-month time period. If a student completes the externship early, the student is often forced to find other employment and supervision in order to complete the 12-month experience.

To resolve this problem, it was determined that the statute should be amended to include a specific number of hours as an alternative to specifying a number of months to define the minimum standard for the 4th year externship.

Ms. Grimes offered to seek assistance from the American Academy of Audiology to determine the proper number of hours.

Ms. Del Mugnaio will request this amendment be included in the Department's Omnibus bill next year.

XI. Licensed Audiologists and Hearing Aid Dispensers Participation in Discount Hearing Service Programs and Issues with Business and Professions Code Section 650 Regarding Prohibited Referrals

Ms. Del Mugnaio presented proposed regulatory language from the Department of Managed Health Care that would provide guidelines for certain types of discount health care programs. She stated that the provisions may be in direction conflict with Business and Professions Code Section 650 in terms of the referral bases for the discount program.

It was decided that Ms. Del Mugnaio would seek the assistance of the Office of the Attorney General to determine if there is a conflict with this language and then make contact with the Department of Managed Health Care regarding the findings.

XII. Licensing / Enforcement / Examination Statistical Data

Ms. Del Mugnaio presented the fiscal year 2009/2010 statistics and entertained questions. She announced that due to an unexpected staffing issue, the licensing statistics for Speech-Language Pathologists and Audiologists will be prepared and mailed separately, as well as posted to the Board's website.

Ms. Del Mugnaio pointed out that, per the request of the Board, the information regarding Hearing Aid Dispensers advertising complaints were now included in the enforcement data.

XIII. Public Comment on Items Not on the Agenda/ Future Agenda Items

Ms. O'Connor reported that she had been provided details regarding a county organization that pays an SLPA with an AA degree less that one with a BA degree. Since there is virtually no difference in a SLPA's ability to perform the job based on the type of degree they possess, this will be placed on a future agenda for further discussion.

Ms. O'Connor expressed concern regarding the Hearing Aid Dispenser Examination failure rates. She was reminded that the examination is scheduled to be evaluated this coming year.

XIV. Announcements – Schedule Future 2011 Board Meetings – January 27-28, 2011 San Francisco
Next Scheduled Board meeting October 21-22, 2010 San Diego

The following Board meeting schedule was agreed upon: October 21-22, 2010 – San Diego; January 27-28, 2011 – San Francisco; April 14-15, 2011 – Sacramento; July 14-15, 2011 – Los Angeles; and October 20-21, 2011 – San Francisco.

XV. Adjournment

Chairperson O'Connor adjourned the meeting at 3:15 pm.

TELEPHONIC BOARD MEETING MINUTES
September 14, 2010

Department of Consumer Affairs
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board
2100 Evergreen Street, Ste. 2100 Sacramento, CA 95815
(916) 263-2909

6061 Shelter Bay Ave.
Mill Valley, CA 94941
(415) 383-7029

University of California, Los Angeles Medical Center, Audiology Clinic
200 UCLA MP, St. 540, Rm 21
Los Angeles, CA 90095
(310) 267-4650

University of California, Davis Medical Center
Department of Otolaryngology - Head and Neck Surgery
2521 Stockton Boulevard, Ste. 7200
Sacramento, CA 95817
(916) 734-8190

North Monterey County Unified
Special Services, Pod C
13994 Castroville Blvd.
Castroville, CA 95012
(831) 633-7054

Contra Costa Regional Medical Center
2500 Alhambra Ave., Building 1, 2 South
Martinez, CA 94553
(925) 370-5284

28071 Bradley Rd.
Sun City, CA 92586
(951) 679-1139

4340 Golden Center Dr., Ste. E
Placerville, CA 95667
(530) 622-2020

400 Hoover Lane
Nevada City, CA 95959
530-265-0611 x233

Board Members Present
Lisa O'Connor, M.A., Chairperson
Alison Grimes, Au.D., Vice-chairperson
Sandra Danz, Hearing Aid Dispenser
Rodney Diaz, M.D., Otolaryngologist
Robert Green, Au.D., Audiologist
Deane Manning, Hearing Aid Dispenser
Monty Martin, M.A., Public Member
Carol Murphy, M.A., Speech-Language Pathologist

Staff Present
Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel
Kathi Burns, Board Staff
Cynthia Alameda, Board Staff
Yvonne Crawford, Board Staff

Guests Present
Erica Cano, Department of Consumer Affairs
Abbie Fox, Audiology Student UCLA

I. Call to Order

Ms Del Mugnaio called the meeting to order at 12:05 p.m.

II. Introductions

Those present introduced themselves.

III. Discuss Pending Legislation AB 2072- Mendoza- Hearing Screenings; Resources and Services

Ms. Del Mugnaio explained that due to recent amendments, this bill no longer represented the original intent that had previously earned a support position from the Board. In fact, it took such a dramatic turn that the Board needed to consider an oppose position.

The amended bill would require the creation of a new council to develop resource information on communication options for children with diagnosed hearing impairments. Since the federal government has already developed and circulated such information across the country, there is concern that the mandates of AB 2072 are unnecessary, duplicative, and costly for California. In addition, AB 2072 would require audiologists to counsel families of hearing impaired children on all available communication options, regardless of the degree of the child's hearing loss, even though some options may not be the most advantageous or appropriate for the individual child/family. There is concern that counseling families on all communication options with no specific recommendation from the audiologist regarding the most appropriate intervention for the child may cause confusion for the parents. Some comments from the professional community regarding AB 2072 state that the bill appears to restrict the audiologist from working within his/her scope of practice and exercising professional judgment when counseling families.

Ms. Del Mugnaio, along with other stakeholders, met with Jennifer Kent, Deputy Legislative Secretary to the Governor, to discuss their concerns.

Ms. Grimes and Ms. Del Mugnaio drafted a letter from the Board to consider requesting veto action by the Governor. This letter was presented to the Board for review and consideration. The Board discussed the bill and its potential impact on families of hearing impaired children.

M/S/C: Manning/Danz
Vote: Unanimous

The Board voted to oppose the bill and send the proposed letter requesting that the Governor veto AB 2072.

Abbie Fox, audiology doctoral student, thanked the Board for its action in requesting that the Governor veto the bill.

IV. Consider Future Legislation

A. Regarding Fee Increases for Hearing Aid Dispensers and Dispensing Audiologists

Ms. Del Mugnaio reported that the Hearing Aid Dispensers fund is dwindling and will

become insolvent in 2012. As such, it is necessary that the Board increase licensing and application fees for dispensing practitioners. Since the fees are already at statutory maximums, a statutory amendment will need to occur first, followed by a regulatory amendment. With the Board's direction, Ms. Del Mugnaio will seek legislative assistance to enact a fee increase for all practitioners who dispense hearing aids.

The Board discussed the possible reasons for the current funding imbalance and the necessity of a fee increase. The Board requested that Ms. Del Mugnaio survey other related hearing arts boards to determine the established fee schedule and the method employed to develop the appropriate fee structure.

M/S/C: Grimes/Green
Vote: Unanimous

The Board voted to direct Ms. Del Mugnaio to seek an author to carry legislation and then seek regulatory changes to increase license and application fees for dispensing practitioners.

B. Amendments to 1793.02 Civil Code Regarding Warranty Provisions for Assistive Devices-Hearing Aids

Ms. Del Mugnaio presented the draft legislative language prepared by Ms. Powell, the Board's legal counsel, which will allow the Board authority to craft by regulation provisions for refunds related to the sale and purchase of hearing aids in California.

Ms. Del Mugnaio asked the Board to authorize her to seek an author for this legislative amendment. Once in place, the Board may then develop regulations to specify how refunds of hearing aids should be handled by hearing aid dispensers in California.

M/S/C: Danz/Murphy

The Board voted to direct Ms. Del Mugnaio to seek an author for this legislative amendment.

V. Review Proposed Regulations

A. Status Update on Dispensing Audiologists' Renewal Fee/Continuing Professional Development Amendments (California Code of Regulations Sections -1399.157, 1399.160.3-1399.160.6)

Ms. Del Mugnaio reported that the proposed regulatory amendments regarding the license renewal fee and annual renewal cycle, as well as the continuing professional development requirements for audiologists authorized to dispense hearing aids, were filed as emergency regulations with the Department, and will be filed with the Office of Administrative Law (OAL) within the next few weeks. Once filed with OAL, a decision will be issued within ten (10) days and, upon approval by OAL, the regulations will become effective.

The Board will have 180 days to file a notice package and schedule a public hearing on the regulation to ensure opportunity for public comment on the changes.

Staff will begin notifying the public and preparing for implementation of the regulations.

B. Consumer Protection Enforcement Initiative (California Code of Regulations 1399.150.3, 1399.151, 1399.156, & 1399.156.5

Ms. Del Mugnaio presented the final draft of the proposed language that will incorporate many of the items contained in Senate Bill 1111 into regulation, and asked that the Board approve the language so that the regulation package may be noticed and a regulatory hearing scheduled.

M/S.C: Grimes/Green
Vote: 6-1; Manning opposed.

The Board voted to adopt the language and schedule the matter for hearing.

VI. Public Comments on Items Not on the Agenda

None.

VII. Announcements – Reschedule October 21-22, 2010 Board Meeting

Ms. O'Connor reported that she participated in a Departmental Executive/Board member telephone conference call that morning that described the difficulties facing boards and bureaus due to the lack of a budget, furloughs, and travel prohibitions.

Due to the budget impasse, furloughs, and travel prohibitions, it was decided that the previously scheduled October Board meeting would be cancelled, and the next meeting would occur as scheduled in San Francisco in January, except that, due to furloughed Fridays, the dates would be changed from January 27 and 28, to January 26 and 27, 2010.

The following Board meetings are scheduled as follows:

January 26 & 27, 2010 – San Francisco
April 13 & 14, 2010 – San Diego
July – Sacramento (dates to be determined)

VIII. Adjournment

Meeting was adjourned at 1:22 p.m.

TELEPHONIC BOARD MEETING MINUTES
November 29, 2010

Department of Consumer Affairs
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board
2005 Evergreen Street, Ste. 2100 Sacramento, CA 95815
(916) 263-2909

6061 Shelter Bay Ave.
Mill Valley, CA 94941
(415) 383-7029

200 Babe Thompson Road
La Selva Beach, CA 95076
(831) 728-1078

Alta Bates Summit Medical Center
2001 Dwight Way, Rm. 2343
Berkley, CA 94704
(510) 204-4562

28071 Bradley Rd.
Sun City, CA 92586
(951) 679-1139

4340 Golden Center Dr., Ste. E
Placerville, CA 95667
(530) 622-2020

400 Hoover Lane
Nevada City, CA 95959
(530) 265-0611 x 233

Board Members Present
Lisa O'Connor, M.A., Chairperson
Sandra Danz, Hearing Aid Dispenser
Robert Green, Au.D., Dispensing Audiologist
Deane Manning, Hearing Aid Dispenser
Monty Martin, M.A., Public Member
Carol Murphy, M.A., Speech-Language Pathologist

Staff Present
Annemarie Del Mugnaio, Executive Officer
Cynthia Alameda, Board Staff
LaVonne Powell, Legal Counsel

Board Members Absent
Alison Grimes, Au.D.
Rodney Diaz, M.D.

Guests Present
Jeff Toney, Department of Consumer Affairs Legislative and Regulatory Review Unit

I. **Call to Order**

Ms Del Mugnaio called the meeting to order at 12:05 p.m.

II. **Introductions**

Those present introduced themselves.

III. **Future Legislation**

A. Review Proposal Regarding Fee Increases for Hearing Aid Dispensers and Dispensing Audiologists

Ms. Del Mugnaio presented the current hearing aid dispensers' licensing fee structure. Included in the document were proposed statutory fee increases in order to collect additional

licensing revenue in future fiscal years. Ms. Del Mugnaio explained that since the fund balance for the hearing aid dispensers fund was at critically low levels and was projected to become insolvent in budget year 2011-2012, it was imperative that the Board pursue legislation to increase revenues during the 2011 legislative cycle. Ms. Del Mugnaio provided two separate analyses of fund condition documents: one with fund projections at the existing fee structure, and the other projecting funds with increased statutory fees. She also provided the Board with a historical budget and revenue report covering expenditures and revenue from fiscal year 2005-2006 through projected fiscal year 2011-2012.

The Board inquired about the expenditure history of the former Hearing Aid Dispensers Bureau operation and the reasons for the increase in expenditures over the past five years.

Ms. Del Mugnaio reported that, based on the expenditure history, it appeared that the hearing aid dispensers' operating costs had increased substantially in the areas of enforcement, specifically investigation and examination costs. She stated that investigation costs increased well over $100,000 from fiscal year 2005-2006 to fiscal year 2010-2011. She explained the formula used to calculate investigation costs as a two-year roll forward, where services provided for the current year would be billed two-years later. Ms. Del Mugnaio stated that most of the hearing aid dispenser cases sent for formal investigation did not result in disciplinary action and, therefore, the low number of administrative discipline cases for hearing aid dispensers does not support the high volume and cost of the investigation cases.

Ms. Powell stated that she served as legal counsel to the former Hearing Aid Dispensers Bureau, and that she recalls many cases stemmed from advertising violations or violations of the Song-Beverly Consumer Warranty Act, which were deemed infractions that either resulted in warning letters or citation and fine remedies.

Ms. Del Mugnaio explained that the current licensing revenue stream for the hearing aid dispensers fund was impacted by the merger legislation, as dispensing audiologists were granted a two-year license pursuant to current regulations and, therefore, the annual renewal fees that would have been collected for those licensees are now being collected biennially. She stated that this is one reason the Board is pursuing the emergency regulations changing the renewal cycle to an annual renewal cycle for dispensing audiologists.

Mr. Manning inquired about the monitoring of the investigation efforts and costs, and stated he was concerned that the revenue devoted to the enforcement efforts was not resulting in any public action. He indicated that, as a former Advisory Committee Member of the Bureau, he reviewed expenditure and revenue reports, and the Bureau appeared to have sufficient funding in reserve.

Ms. Del Mugnaio indicated that the historical expenditure report includes actual operating expenses as were reported in the budget documents to the Department and other control agencies.

Ms. Del Mugnaio requested the Board to call for a motion to approve the legislative fee increase in order for her to pursue the statutory amendment.

M/S.C: O'Connor/Green
Vote: 5-1; Manning opposed.

The Board voted to direct Ms. Del Mugnaio to seek an author to carry legislation and then seek regulatory changes to increase license and application fees for dispensing practitioners.

B. Amendments to 1793.02 Civil Code Regarding Warranty Provisions for Assistive Devices-Hearing Aids

Ms. Del Mugnaio explained that the Board has already approved the legislative amendment as presented at the September 14, 2010 teleconference; however, she stated that she wanted the Board to review the Legislative Proposal Concept Paper to be forwarded to the Department for consideration in an omnibus bill.

The Board reviewed the document and provided minor grammatical changes.

Ms. Del Mugnaio reported that the concept paper and legislative language would be sent to the Department following the teleconference meeting.

IV. Proposed Regulations

A. Approval of Emergency Regulations for Dispensing Audiologists Renewal Fee/Continuing Professional Development Amendments (California Code of Regulations Sections -1399.157, 1399.160.3-1399.160.6)

Ms. Del Mugnaio stated that the Board had approved the proposed emergency regulations at the September 14, 2010 teleconference; however, it was necessary to amend the language to include the $280 application fee for those applying as dispensing audiologists, as the fee was included in Assembly Bill 1535 under Section 2534.2.

Ms. Del Mugnaio reported that she has been working with the Department's Budget Unit to solidify the budget impact pursuant to the regulations. She stated that the Department is providing State and Consumer Services Agency a preliminary review of the fiscal documents for the emergency regulations in order to expedite the approval process, as the regulations need to be filed and in effect immediately in order to implement the critical fees and continuing professional development requirements.

M/S.C: Green/Murphy
Vote: Unanimous

The Board voted to adopt the emergency regulations for dispensing audiologists' licensing and renewal fees and continuing professional development **(California Code of Regulations Sections -1399.157, 1399.160.3-1399.160.6).**

B. Consumer Protection Enforcement Initiative (California Code of Regulations 1399.150.3, 1399.151, 1399.156, & 1399.156.5

Ms. Del Mugnaio presented the proposed language that will incorporate many of the items contained in Senate Bill 1111 into regulation. She stated that the Board had approved a version of the regulatory amendment at the September 14, 2010 teleconference; however, after further legal review, changes were necessary to clarify

the meaning of the term “sex offense.”

M/S.C: Murphy/Martin
Vote: Unanimous

The Board voted to adopt the language and schedule the matter for hearing.

V. Public Comments on Items Not on the Agenda

None.

VI. Adjournment

Meeting was adjourned at 1:00 p.m.

DEPARTMENT OF CONSUMER AFFAIRS

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Speech-Language Pathology and Audiology

BUDGET REPORT

FY 2010-11 Expenditure Projection

BASED ON NOVEMBER 2010 CALSTARS REPORT

Month Number	5
Mo. Remaining	7

OBJECT DESCRIPTION	FY 2009-10 ACTUAL EXPENDITURES (MONTH 13)	FY 2009-10 EXPENDITURES AS OF 11/30/2009	FY 2010-11 Final BUDGET ALLOTMENT	FY 2010-11 EXPENDITURES AS OF 11/302010	FY 2010-11 EXPENDITURE PROJECTIONS AT YEAR END	FY 2010-11 UNENCUMBERED BALANCE AT YEAR END	FY 2010-11 STRAIGHT LINE	METHODOLOGY
PERSONAL SERVICES								
Salary & Wages	234,423	86,371	280,084	107,089	#REF!	#REF!	257,014	ROSTER
Temp Help 907	18,928	9,269	14,007	4,713	#REF!	#REF!	11,311	ROSTER
Bd/Comm (901,920)	1,200	600	5,854	0	1,200	4,654	0	PRIOR YEAR
Overtime	0	0	0	0	0	0	0	YEAR TO DATE
Benefits	93,656	37,650	100,423	52,118	#REF!	#REF!	125,083	PY STAFF-BENEFIT RATIO
Salary Savings	0	0	(6,597)	0	0	-6,597	0	BUDGET AMOUNT
TOTAL PERS SVS	**348,207**	**133,890**	**393,771**	**163,920**	**#REF!**	**#REF!**	**393,408**	
OPERATING EXPENSES & EQUIPMENT								
Fingerprints	5,559	1,938	19,439	2,295	5,559	13,880	5,508	PRIOR YEAR
General Expense	8,167	1,429	15,379	302	8,167	7,212	725	PRIOR YEAR
Minor Equipment 226	114	0	9,000	0	9,000	0	0	FULL BUDGET
Printing	7,254	2,816	18,964	1,320	7,254	11,710	3,168	PRIOR YEAR
Communication	9,501	1,669	9,624	1,109	9,501	123	2,662	PRIOR YEAR
Postage	15,150	6,141	2,598	2,675	15,150	-12,552	6,420	PRIOR YEAR
Noc-Insurance	0	0	0	0	0	0	0	PRIOR YEAR
Travel In State	11,858	3,971	11,394	235	11,858	-464	256	PRIOR YEAR
Travel Out of State	0	0	1,724		0	1,724	0	PRIOR YEAR
Training	288	147	4,813	0	288	4,525	0	PRIOR YEAR
Facilities Ops	59,297	57,816	64,576	60,336	60,336	4,240	144,806	YEAR TO DATE
Alterations	0	0	0	0	0	0	0	PRIOR YEAR
C&P Serv. Internal	0	0	2,753	0	0	2,753	0	PRIOR YEAR
**C&P Serv. External	0	0	0	0	0	0	0	PRIOR YEAR
DEPARTMENTAL PRORATA								
DP Billing (OIS)	61,860	31,315	74,872	26,480	74,872	0	63,552	FULL BUDGET
Indirect Dist. Cost	41,795	19,695	11,360	17,444	11,360	0	41,866	FULL BUDGET
DOI - Prorata	1,569	775	1,780	703	1,780	0	1,687	FULL BUDGET
Public Affairs	1,921	1,730	3,509	1,615	3,509	0	3,876	FULL BUDGET
CCED	2,040	940	2,095	850	2,095	0	2,040	FULL BUDGET
OPP Support Serves	0	0	0	0	0	0	0	FULL BUDGET
Interagency Agreement (IAC)	0	0	93	0	93	0	0	FULL BUDGET
Share Services (MBC)	0	0	0	0	0	0	0	FULL BUDGET
CONSOLIDATED DATA CENTERS								
Consolidated Data Cntr (Teale)	588	2,000	5,460	2,000	588	4,872	4,800	PRIOR YEAR
DATA PROCESSING								
DP Maint & supplies (432,436)	10	0	3,806	0	10	3,796	0	PRIOR YEAR
IT Hardware	0	0	0	0	0	0	0	PRIOR YEAR
Electric Waste/Recycle	0	0	0	0	0	0	0	PRIOR YEAR
CENTRAL ADMINISTRATIVE SVC								
Central Adm. Services (Statewide Pror	34,942	17,471	27,014	13,507	27,014	0	32,417	FULL BUDGET
EXAMS								
Exam supplies & freight	0	0	0	0	0	0	0	PRIOR YEAR
Exam Site rental	0	0	0	0	0	0	0	PRIOR YEAR
Expert Exam	0	0	0	0	0	0	0	PRIOR YEAR
Exam Contracts	0	0	0	0	0	0	0	PRIOR YEAR
Expert Examiners (SME)	500	0	0	9,132	9,132	-9,132	21,917	YEAR TO DATE
ENFORCEMENT								
Attorney General	41,465	23,545	48,572	13,170	#REF!	#REF!	31,608	ESTIMATE
Off of Admin Hearings	3,088	787	5,112	125	3,088	2,024	300	PRIOR YEAR
Evidence/Witness	12,210	2,500	6,428	94	10,000	-3,572	226	PRIOR YEAR
Court Reporter Servs	700	0	0	0	700	-700	0	PRIOR YEAR
Div of Investigations	0	0	38,864	0	38,864	0	0	FULL BUDGET
MAJOR EQUIPMENT								
Major Equipment	0	0	0	0	0	0	0	YEAR TO DATE
OTHER								
MOU with VET MED (SSA - 5 Months)	0	0	0	0	0	0	0	ESTIMATE
Tort Payment	0	0	0	0	0	0	0	PRIOR YEAR
Total OE & E	**319,876**	**176,685**	**389,229**	**153,392**	**#REF!**	**#REF!**	**367,833**	
TOTAL EXPENDITURES	**668,083**	**310,575**	**783,000**	**317,312**	**#REF!**	**#REF!**	**761,241**	
Scheduled Reimbursements	(6,426)	(4,476)	(24,000)	(4,846)	(4,846)	(19,154)	(4,846)	YEAR TO DATE
Unscheduled Reimbursements	(8,089)	(1,150)	0	(4,306)	(4,306)	4,306	(4,306)	YEAR TO DATE
Total Reimbursements	**(14,515)**	**(5,626)**	**(24,000)**	**(9,152)**	**(9,152)**	**(14,848)**	**(9,152)**	
NET APPROPRIATION	**653,568**	**304,949**	**759,000**	**308,160**	**#REF!**	**#REF!**	**742,937**	

NOTES/ASSUMPTIONS

1. CY expenditures include YTD+ Encumbrances

TOTAL PROJECTED DEFICIT/SURPLUS	**#REF!**
PERSONNEL SERVICES TARGET REDUCTION:	**(14,650)**
ADJUSTED DEFICIT/SURPLUS:	**#REF!**

Budget Review and Proposal for a Fee Increase for the Hearing Aid Dispensers Written and Practical Examinations.

At the November 29, 2010 teleconference meeting, the Board discussed an impending need to increase licensing and renewal fees for all dispensing practitioners due to a significant fund imbalance for the Hearing Aid Dispensers (HAD) Account. As reported at the November teleconference, the increase in enforcement program expenditures, (primarily in the area of investigations), a temporary decrease in revenue due to combined licenses, and other general inflation in departmental services costs, led to the fund ("savings account") for the HAD account to be depleted in FY 2011/2012. An analysis of the negative fund reserve and projected revenue stream demonstrated a need for potentially doubling all dispensing practitioner fees across the board. Given the economic/fiscal climate, the prospects of having such a drastic fee increase approved by the Legislature and accepted by the professional community seems doubtful. As such, staff and I met with the Department to discuss "options" in reducing operating cost and a means by which to secure additional revenue. The Board was able to negotiate adjustments to Departmental services costs in order to achieve cost savings in the area of investigations and in client service costs for mediation, outreach and education. The projected savings will amount to approx. $250,000 in FY 11/12.

In addition, staff conducted an analysis of our HAD written and practical examination expenditures which include: exam development, administration, travel and per diem for subject matter experts, and a cyclical occupational analysis that should be conducted every 5-7 years. As reflected in the analysis below, the HAD examination fees as currently set are not sufficient to support the actual cost of administering both the written and practical examinations. Existing fees are set at:
Practical Examination = $285
Written Examination = $100

Examination Program Expenditures
Expenditures for Practical and Written Examination – Based on FY 2009/10 actual expenditures and estimated occupational analysis costs.

Exam Staff Resources: $40,210 (50% SSA, 10% AGPA)
Exam Expenditures: $96,849
Occupational Analysis: $13,333 (Estimated cost is $80,000 every 5-7 years: 80,000 / 6 = $13,333)
Total Exam Costs: $150,392

Practical Exam = approximately 2/3 of the Total Exam Costs or $100,000
(4) Exams are offered per year with approximately (50) attendees per exam = 200
$100,000 / 200 = $500
Proposed Fees = $500

Written Exam = approximately 1/3 of Total Exam Costs or $50,392
Historically approximately 224 individuals take the written exam per year.
$50,392 / 224 = $225
Proposes Fee = $225

Examination fees are not set by statute or regulation, but instead are set by resolution of the Board based on actual costs. The Board may increase the examination fees as proposed above by vote in order to generate the necessary revenue to support the examination program and improve the HAD's fund balance.

DEPARTMENT OF CONSUMER AFFAIRS

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Hearing Aid Dispensers

HISTORICAL BUDGET AND REVENUE REPORT

OBJECT DESCRIPTION	FY 2005-06 ACTUAL EXPENDITURES (MONTH 13)	FY 2006-07 ACTUAL EXPENDITURES (MONTH 13)	FY 2007-08 ACTUAL EXPENDITURES (MONTH 13)	FY 2008-09 ACTUAL EXPENDITURES (MONTH 13)	FY 2009-10 ACTUAL EXPENDITURES (MONTH 13)	FY 2010-11 BUDGET EXPENDITURES (FULL BUDGET)	FY 2011-12 PROPOSED EXPENDITURES (FULL BUDGET)
PERSONAL SERVICES							
Civil Service - Perm	104,364	137,119	183,030	208,160	170,036	186,413	240,217
Civil Service - Temp	1,119	0	0	0	0	0	0
Temp Help 907	31,220	78,816	19,584	39,601	1,375	3,846	12,333
Allocated Proctor Comp	1,557	954	1,002	632	1,242	0	0
Statutory - Exempt	12,006	0	0	0	0	0	0
Comm Member (911)	700	1,500	3,200	4,700	700	0	5,822
Ovetime	3,768	6,021	7,964	6,136	1,677	0	0
Benefits	45,886	73,374	73,833	95,543	65,140	68,675	84,289
Salary Savings	0	0	0	0	0	0	(19,952)
Special Adj - Pers Svs	0	(13,180)	0	0	0	0	0
TOTAL PERSONAL SERVICES:	200,620	284,604	288,613	354,772	240,170	258,934	322,709
OPERATING EXPENSES & EQUIPMENT							
Fingerprints	98	433	433	51	542	542	9,000
General Expense	5,620	8,138	11,809	12,040	8,505	8,505	21,291
Printing	1,788	10,419	4,642	2,181	1,893	2,158	9,429
Communication	2,062	2,781	1,362	2,169	3,008	3,008	8,577
Postage	6,396	9,439	4,279	6,508	7,503	12,730	12,742
Noc-Insurance	0	0	0	0	0	0	144
Travel Out of State	0	0	0	0	0	0	0
Training	50	0	69	326	0	0	3,489
TOTAL:	16,014	31,210	22,594	23,275	21,451	26,943	64,672
Facilities (Rent)	23,058	30,455	30,899	31,280	31,817	36,918	47,693
Facilities (Other)	465	10,623	7,029	2,832	16,403	0	0
TOTAL:	23,523	41,078	37,928	34,112	48,220	36,918	47,693
DEPARTMENTAL PRORATA							
DP Billing (OIS)	33,307	27,378	30,947	29,399	38,932	36,403	37,203
Indirect Dist. Cost	39,547	40,150	57,332	57,397	55,319	44,357	45,021
DOI - Prorata	551	678	1,111	1,165	1,257	974	1,097
Public Affairs	1,517	992	1,789	1,448	1,532	1,994	1,714
CCED	48,930	23,732	31,705	21,397	54,302	78,553	0
OPP Support Serves	68	68	68	0	0	0	0
IA Share Services	0	0	0	0	0	96	96
C&P Serv. Internal (SLPA Shared Services)	4,840	0	0	0	0	35,137	35,137
TOTAL:	123,920	92,998	122,952	110,806	151,342	197,514	85,131
CONSOLIDATED DATA CENTERS							
Consolidated Data Cntr (Teale)	6,000	200	120	200	504	504	2,555
DATA PROCESSING							
DP Maint & supplies (432,436)	0	0	0	0	0	0	13,271
CENTRAL ADMINISTRATIVE SVC							
Central Adm. Services (Statewide Prorata)	15,900	24,736	30,841	31,642	22,692	25,837	49,578
EXAMS							
Exam Rent - State Owned	4,210	4,179	5,065	5,476	1,539	1,539	7,663
Exam Rent - Non State	0	800	0	0	0	0	0
Administrative - Ext S	13,174	14,275	8,246	13,150	15,250	25,542	25,542
C/P Svs - Expert Exam	0	0	56	0	0	0	0
C/P Svs - Ext Sub Ma	30,803	43,141	37,990	48,405	38,885	38,885	37,913
Interagency Agreement (IAC) OER	50,664	60,955	32,864	26,790	32,178	99,351	29,351
C&P Serv. External	0	60,000	0	0	0	0	0
TOTAL:	98,851	183,350	84,221	93,821	87,852	165,317	100,469
TRAVEL (INSIDE CALIFORNIA)							
Travel In State	13,818	18,624	26,982	32,790	8,997	5,000	23,163
ENFORCEMENT							
Attorney General	26,251	5,498	12,104	23,174	39,318	20,544	41,995
Off of Admin Hearings	1,342	519	300	8,577	4,087	4,087	16,637
Evidence/Witness	0	0	1,000	0	560	560	1,277
Court Reporter Servs	297	200	500	334	1,000	1,000	0
Div of Investigations	48,801	31,598	12,403	3,187	146,512	190,858	0
TOTAL:	76,691	37,815	26,307	35,272	191,477	217,049	59,909
EQUIPMENT							
Major Equipment	2,870	0	0	0	0	5,000	0
Minor Equipment 226	1,286	1,621	0	151	19,784	3,000	3,000
TOTAL:	4,156	1,621	0	151	19,784	8,000	3,000
VEHICLE OPERATIONS							
Vehicle Operations	0	0	0	0	0	5,000	15,000
MISCELLANEOUS STATE EXPENDITURES							
Miscellaneous	-9,000	1,000	1,000	2,000	8,000	2,000	0
TOTAL OPERATING EXPENSES & EQUIPMENT:	369,873	432,632	352,945	364,069	560,319	690,082	464,441
GRAND TOTAL:	570,493	717,236	641,558	718,841	800,489	949,016	787,150
SCHEDULED REIMBURSEMENTS:	6,265	7,127	5,800	3,721	3,492	5,200	9,000
EXPENDITURES LESS SCHEDULED REIMBURSEMENTS:	564,228	710,109	635,758	715,120	796,997	943,816	778,150

REVENUE

CATEGORY	CODE	FY 2005-06 ACTUAL	FY 2006-07 ACTUAL	FY 2007-08 ACTUAL	FY 2008-09 ACTUAL	FY 2009-10 ACTUAL	FY 2010-11 ESTIMATED	FY 2011-12 ESTIMATED
FINGERPRINTS	991937 01	$ -	$ 224.00	$ 280.00	$ 51.00	$ 392.00	$ -	$ -
SCHEDULED REIMB	991937 02	$ 3,565.00	$ 1,920.00	$ 3,865.00	$ 1,920.00	$ 3,100.00	$ -	$ -
COST RECOVERY	995988 01	$ 2,700.00	$ 4,982.94	$ 1,655.13	$ 1,749.96	$ -	$ 9,000.00	$ 9,000.00
	TOTAL:	$ 6,265.00	$ 7,126.94	$ 5,800.13	$ 3,720.96	$ 3,492.00	$ 9,000.00	$ 9,000.00
OTHER	125600	$ 970.00	$ 1,250.00	$ 1,015.00	$ 765.00	$ 1,575.00	$ 2,000.00	$ 2,000.00
INITIAL APPLICATION	125700	$ 137,830.00	$ 142,596.00	$ 175,590.00	$ 194,750.00	$ 139,790.00	$ 167,000.00	$ 196,000.00
RENEWAL	125800	$ 450,171.00	$ 449,845.00	$ 466,880.00	$ 489,745.00	$ 400,583.00	$ 364,000.00	$ 448,000.00
DELINQUENT	125900	$ 4,125.00	$ 5,200.00	$ 5,250.00	$ 4,750.00	$ 4,500.00	$ 5,000.00	$ 5,000.00
INTEREST	150300	$ 46,093.83	$ 63,261.87	$ 55,550.92	$ 29,106.47	$ 8,077.17	$ 12,000.00	$ -
MISCELLANEOUS	161000	$ -	$ 131.00	$ 339.50	$ 405.00	$ 200.00	$ -	$ -
MISCELLANEOUS	161400	$ 417.20	$ 132.00	$ 45.00	$ 30.00	$ 175.00	$ -	$ -
	TOTAL:	$ 639,607.03	$ 662,415.87	$ 704,670.42	$ 719,551.47	$ 554,900.17	$ 550,000.00	$ 651,000.00
	ESTIMATED REVENUE	$ 592,000.00	$ 629,000.00	$ 621,000.00	$ 660,000.00	$ 623,000.00	$ 550,000.00	$ 651,000.00
		47,607.03	33,415.87	83,670.42	59,551.47	(68,099.83)	0.00	0.00

DEPARTMENT OF CONSUMER AFFAIRS

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

Hearing Aid Dispensers

HISTORICAL BUDGET AND REVENUE REPORT

OBJECT DESCRIPTION	FY 2005-06 ACTUAL EXPENDITURES (MONTH 13)	FY 2006-07 ACTUAL EXPENDITURES (MONTH 13)	FY 2007-08 ACTUAL EXPENDITURES (MONTH 13)	FY 2008-09 ACTUAL EXPENDITURES (MONTH 13)	FY 2009-10 ACTUAL EXPENDITURES (MONTH 13)	FY 2010-11 BUDGET EXPENDITURES (FULL BUDGET)	FY 2011-12 PROPOSED EXPENDITURES (FULL BUDGET)
PERSONAL SERVICES							
Civil Service - Perm	104,364	137,119	183,030	208,160	170,036	186,413	240,217
Civil Service - Temp	1,119	0	0	0	0	0	0
Temp Help 907	31,220	78,816	19,584	39,601	1,375	3,846	12,333
Allocated Proctor Comp	1,557	954	1,002	632	1,242	0	0
Statutory - Exempt	12,006	0	0	0	0	0	0
Comm Member (911)	700	1,500	3,200	4,700	700	0	5,822
Ovetime	3,768	6,021	7,964	6,136	1,677	0	0
Benefits	45,886	73,374	73,833	95,543	65,140	68,675	84,289
Salary Savings	0	0	0	0	0	0	(19,952)
Special Adj - Pers Svs	0	(13,180)	0	0	0	0	0
TOTAL PERSONAL SERVICES:	200,620	284,604	288,613	354,772	240,170	258,934	322,709
OPERATING EXPENSES & EQUIPMENT							
Fingerprints	98	433	433	51	542	542	9,000
General Expense	5,620	8,138	11,809	12,040	8,505	8,505	21,291
Printing	1,788	10,419	4,642	2,181	1,893	2,158	9,429
Communication	2,062	2,781	1,362	2,169	3,008	3,008	8,577
Postage	6,396	9,439	4,279	6,508	7,503	12,730	12,742
Noc-Insurance	0	0	0	0	0	0	144
Travel Out of State	0	0	0	0	0	0	0
Training	50	0	69	326	0	0	3,489
TOTAL:	16,014	31,210	22,594	23,275	21,451	26,943	64,672
Facilities (Rent)	23,058	30,455	30,899	31,280	31,817	36,918	47,693
Facilities (Other)	465	10,623	7,029	2,832	16,403	0	0
TOTAL:	23,523	41,078	37,928	34,112	48,220	36,918	47,693
DEPARTMENTAL PRORATA							
DP Billing (OIS)	33,307	27,378	30,947	29,399	38,932	36,403	37,203
Indirect Dist. Cost	39,547	40,150	57,332	57,397	55,319	44,357	45,021
DOI - Prorata	551	678	1,111	1,165	1,257	974	1,097
Public Affairs	1,517	992	1,789	1,448	1,532	1,994	1,714
CCED	48,930	23,732	31,705	21,397	54,302	78,553	0
OPP Support Serves	68	68	68	0	0	0	0
IA Share Services	0	0	0	0	0	96	96
C&P Serv. Internal (SLPA Shared Services)	4,840	0	0	0	0	35,137	35,137
TOTAL:	123,920	92,998	122,952	110,806	151,342	197,514	85,131
CONSOLIDATED DATA CENTERS							
Consolidated Data Cntr (Teale)	6,000	200	120	200	504	504	2,555
DATA PROCESSING							
DP Maint & supplies (432,436)	0	0	0	0	0	0	13,271
CENTRAL ADMINISTRATIVE SVC							
Central Adm. Services (Statewide Prorata)	15,900	24,736	30,841	31,642	22,692	25,837	49,578
EXAMS							
Exam Rent - State Owned	4,210	4,179	5,065	5,476	1,539	1,539	7,663
Exam Rent - Non State	0	800	0	0	0	0	0
Administrative - Ext S	13,174	14,275	8,246	13,150	15,250	25,542	25,542
C/P Svs - Expert Exam	0	0	56	0	0	0	0
C/P Svs - Ext Sub Ma	30,803	43,141	37,990	48,405	38,885	38,885	37,913
Interagency Agreement (IAC) OER	50,664	60,955	32,864	26,790	32,178	99,351	29,351
C&P Serv. External	0	60,000	0	0	0	0	0
TOTAL:	98,851	183,350	84,221	93,821	87,852	165,317	100,469
TRAVEL (INSIDE CALIFORNIA)							
Travel In State	13,818	18,624	26,982	32,790	8,997	5,000	23,163
ENFORCEMENT							
Attorney General	26,251	5,498	12,104	23,174	39,318	20,544	41,995
Off of Admin Hearings	1,342	519	300	8,577	4,087	4,087	16,637
Evidence/Witness	0	0	1,000	0	560	560	1,277
Court Reporter Servs	297	200	500	334	1,000	1,000	0
Div of Investigations	48,801	31,598	12,403	3,187	146,512	190,858	0
TOTAL:	76,691	37,815	26,307	35,272	191,477	217,049	59,909
EQUIPMENT							
Major Equipment	2,870	0	0	0	0	5,000	0
Minor Equipment 226	1,286	1,621	0	151	19,784	3,000	3,000
TOTAL:	4,156	1,621	0	151	19,784	8,000	3,000
VEHICLE OPERATIONS							
Vehicle Operations	0	0	0	0	0	5,000	15,000
MISCELLANEOUS STATE EXPENDITURES							
Miscellaneous	-9,000	1,000	1,000	2,000	8,000	2,000	0
TOTAL OPERATING EXPENSES & EQUIPMENT:	369,873	432,632	352,945	364,069	560,319	690,082	464,441
GRAND TOTAL:	570,493	717,236	641,558	718,841	800,489	949,016	787,150
SCHEDULED REIMBURSEMENTS:	6,265	7,127	5,800	3,721	3,492	5,200	9,000
EXPENDITURES LESS SCHEDULED REIMBURSEMENTS:	564,228	710,109	635,758	715,120	796,997	943,816	778,150

REVENUE

CATEGORY	CODE	FY 2005-06 ACTUAL	FY 2006-07 ACTUAL	FY 2007-08 ACTUAL	FY 2008-09 ACTUAL	FY 2009-10 ACTUAL	FY 2010-11 ESTIMATED	FY 2011-12 ESTIMATED
FINGERPRINTS	991937 01	$ -	$ 224.00	$ 280.00	$ 51.00	$ 392.00	$ -	$ -
SCHEDULED REIMB	991937 02	$ 3,565.00	$ 1,920.00	$ 3,865.00	$ 1,920.00	$ 3,100.00	$ -	$ -
COST RECOVERY	995988 01	$ 2,700.00	$ 4,982.94	$ 1,655.13	$ 1,749.96	$ -	$ 9,000.00	$ 9,000.00
	TOTAL:	$ 6,265.00	$ 7,126.94	$ 5,800.13	$ 3,720.96	$ 3,492.00	$ 9,000.00	$ 9,000.00
OTHER	125600	$ 970.00	$ 1,250.00	$ 1,015.00	$ 765.00	$ 1,575.00	$ 2,000.00	$ 2,000.00
INITIAL APPLICATION	125700	$ 137,830.00	$ 142,596.00	$ 175,590.00	$ 194,750.00	$ 139,790.00	$ 167,000.00	$ 196,000.00
RENEWAL	125800	$ 450,171.00	$ 449,845.00	$ 466,880.00	$ 489,745.00	$ 400,583.00	$ 364,000.00	$ 448,000.00
DELINQUENT	125900	$ 4,125.00	$ 5,200.00	$ 5,250.00	$ 4,750.00	$ 4,500.00	$ 5,000.00	$ 5,000.00
INTEREST	150300	$ 46,093.83	$ 63,261.87	$ 55,550.92	$ 29,106.47	$ 8,077.17	$ 12,000.00	$ -
MISCELLANEOUS	161000	$ -	$ 131.00	$ 339.50	$ 405.00	$ 200.00	$ -	$ -
MISCELLANEOUS	161400	$ 417.20	$ 132.00	$ 45.00	$ 30.00	$ 175.00	$ -	$ -
	TOTAL:	$ 639,607.03	$ 662,415.87	$ 704,670.42	$ 719,551.47	$ 554,900.17	$ 550,000.00	$ 651,000.00
	ESTIMATED REVENUE	$ 592,000.00	$ 629,000.00	$ 621,000.00	$ 660,000.00	$ 623,000.00	$ 550,000.00	$ 651,000.00
		47,607.03	33,415.87	83,670.42	59,551.47	(68,099.83)	0.00	0.00

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY, & HEARING AID DISPENSERS BOARD
2005 Evergreen Street, Suite 2100 Sacramento, CA 95815
P (916) 263-2666 F (916) 263-2668 | www.slpab.ca.gov

December 8, 2010

Dr. Hallie Morrow, M.D., Medical Consultant
Children's Medical Services Branch
Department of Health Care Services
1515 K Street, Suite 400
Sacramento, CA 95814

RE: California Newborn Hearing Screening Program

Dear Dr. Morrow

The SLPAHADB would like to invite you to present information about the California NBHSP at the January 26-27, 2011 Board meeting to be held in San Francisco at the Kensington Park Hotel.

As a consumer protection issue, the audiologist's role in the NHSP is one that is vitally important. It is of interest to the Board to better understand the scope of the program, the audiologist's role(s), and the performance of the program statewide. Of particular interest is the audiologist's role in serving as Audiology Director of hospital NHSPs, and the legal, ethical and professional responsibilities.

Also of interest to the Board would be for you to summarize the performance in terms of statistics of pass/refer in the birth screen statewide, and the loss-to-follow-up, as well as how audiologists might be able to participate in quality improvement activities to address adherence to the 1-3-6 timelines.

Finally, the issue of delayed and mis-diagnosis continues to be a concern; we would appreciate your viewpoints on how timely and accurate diagnoses, as provided by both CCS-paneled audiologists and ENT physicians, might be improved.

We appreciate your consideration in being able to speak with the Board on either of the dates provided above. Please notify at your earliest convenience if you and/or a representative will be able to attend the meeting.

Thank you.

Annemarie Del Mugnaio
Executive Officer

ORDER OF ADOPTION

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Title 16, Division 13.4, California Code of Regulations
Speech-Language Pathology and Audiology Regulations

Article 8. Miscellaneous

(1) Amend section 1399.157 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

1399.157. Fees.

(a) The application fee shall be $60.00 for any person applying for a speech-language pathology or non-dispensing audiology license.

(b) The application fee shall be $280 for any person applying for a dispensing audiology license.

~~(b)~~ (c) The biennial renewal fee for licensed speech-language pathologists and audiologists which expire prior to January 31, 2002 shall be $75.00. Effective January 1, 2002, the biennial renewal fee for licensed speech-language pathologists or audiologists shall be $110.00.

~~(c)~~ (d) The annual renewal fee for a licensed audiologist authorized to dispense hearing aids shall be $280.

~~(c)~~ (e) The fee for registration of an aide shall be $10.00

~~(d)~~ (f) The application and the biennial renewal fee for a continuing professional development provider is a $200 non-refundable fee.

~~(e)~~ (g) The fee for issuance of a license status and history certification letter shall be $10.00.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Sections 163.5, 2532.6(f), and 2534.2, Business and Professions Code.

Article 11. Continuing Professional Development

(2) Amend section 1399.160.3 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

1399.160.3. Continuing Professional Development Requirements.

(a) A licensee, whose license expires in the year 2001, shall accrue at least twelve (12) hours of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than four (4) hours of continuing professional development courses through self-study courses during this renewal period.

(b) A licensee who holds both a speech-language pathology license and an audiology license that expire in the year 2001, shall accrue at least eight (8) hours of continuing professional development courses as defined in Section 1399.160.4. for each license. A licensee may accrue

no more than two (2) hours of continuing professional development courses through self-study courses for each license.

(c) A licensee shall accrue at least twenty-four (24) hours during a single renewal period of continuing professional development courses as defined in Section 1399.160.4. A licensee may accrue no more than eight (8) hours of continuing professional development courses through the following activities during a single renewal period:

(1) No more than six (6) hours of self-study activities,

(2) No more than four (4) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(3) Not more than 50% of the continuing professional development hours required of a licensed audiologist, shall be obtained from courses where the content focuses on equipment, devices, or other products of a particular publisher, company or corporation.

(d) A licensee who holds both a speech-language pathology license and an audiology license, shall accrue at least sixteen (16) hours of continuing professional development courses as defined in Section 1399.160.4 for each license. A licensee may accrue no more than five (5) hours of continuing professional development through the following activities for each license:

(1) No more than two and one-half (2.5) hours of self-study activities,

(2) No more than two and one-half (2.5) hours from courses related to the discipline of speech-language pathology or audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(e) A licensed audiologist authorized to dispense hearing aids as provided by Section 2539.1 of the code shall accrue at least twelve (12) hours of continuing professional development as defined in Section 1399.160.4 annually. A licensed audiologist authorized to dispense hearing aids may accrue no more than (3) hours of continuing professional development courses through the following activities during a single renewal period:

(1) No more than one and a half (1.5) hours of self-study activities,

(2) No more than one and a half (1.5) hours from courses related to the discipline of audiology, as defined in Section 1399.160.4(c)(4) or in indirect client care courses as defined in Section 1399.160.4(c)(3).

(3) Exactly 50% of the continuing professional development hours required of a licensed audiologist authorized to dispense hearing aids, shall be obtained from courses related to hearing aid dispensing but shall not be obtained from courses where the content focuses on the equipment, devices, or other products of a particular manufacturer or company. The remaining 50% of the continuing professional development hours required of a dispensing audiologist shall be relevant to the practice of audiology as defined in Section 2530.2 (k) and shall not be obtained from hearing aid dispensing courses as provided for in this section.

~~(e)~~ (f) If a licensee teaches a course offered by a provider registered with the board or an entity listed in Section 2532.6 of the Code, the licensee may claim credit for the same course only once, receiving the same amount of hours of continuing professional development credit as a licensee who attended the course.

~~(f)~~ (g) A licensee may not claim credit for the same course more than once for hours of continuing professional development.

~~(g)~~ (h) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing professional development.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), and 2539.1(a)-(b) Business and Professions Code.

(3) Section 1399.160.4 is not being modified, however, the section is provided below to assist one in understanding the proposed changes in context.

1399.160.4. Continuing Professional Development Course Content.

(a) A licensed speech-language pathologists shall determine that the content and learning outcomes of a course are relevant to the practice of speech-language pathology as defined in Section 2530.2(d).

(b) A licensed audiologist shall determine that the content and learning outcomes of a course are relevant to the practice of audiology as defined in Section 2530.2(k).

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

(1) Examples of direct patient/client care courses for the practice of speech-language pathology include: fluency disorders, voice disorders, motor disorders of speech, dysphagia, speech science, oral and written language disorders, aphasia and neurogenic disorders of language and cognition, augmentative and alternative communication, phonological/ articulatory disorders language science, and patient/client counseling to facilitate recovery from, or adjustment to, a communication disorder.

(2) Examples of direct patient/client care courses for the practice of audiology include auditory and vestibular assessment, auditory habilitation/rehabilitation, hearing assistive technology, industrial audiology/hearing conservation and hearing science.

(3) Indirect patient/client care courses cover pragmatic aspects of speech-language pathology or audiology practice (e.g., legal or ethical issues, consultation, record-keeping, office management, managed care issues, research obligations, technological applications related to assessment/diagnosis or intervention).

(4) Courses that are related to the discipline of speech-language pathology or audiology may cover general medical or educational offerings including, but not limited to, social interaction, cultural and linguistic diversity as it applies to service delivery for diverse populations, professional service delivery models, interdisciplinary case management issues, or medical pathologies related to neurological disorders that also result in communication difficulties.

(d) A provider shall ensure that a course has specific objectives that are measurable.

(e) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

(f) Courses considered outside the scope of continuing professional development include, but are not limited to, those in the following areas:

(1) money management, the licensee's personal finances or personal business matters;

(2) general physical fitness or the licensee's personal health;

(3) presentations by political or public figures or other persons that do not deal primarily with the practice of either speech-language pathology or audiology;

(4) tort liability;

(5) courses that address increased office production or computerization, financial planning, employee benefits, marketing or motivational topics to increase productivity or profitability; and

(6) courses in which the primary beneficiary is the licensee, not the consumer.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (c), and (e), Business and Professions Code.

(4) Section 1399.160.5 is not being modified, however, the section is provided below to assist one in understanding the proposed changes in context.

1399.160.5. Hours of Continuing Professional Development.

(a) One hour of instruction is equal to one hour of continuing professional development credit.

(b) One academic quarter unit is equal to ten (10) hours of continuing professional development credit.

(c) One academic semester unit is equal to fifteen (15) hours of continuing professional development credit.

(d) One academic trimester unit is equal to thirteen (13) hours of continuing professional development credit.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), and (c), Business and Professions Code.

(5) Amend section 1399.160.6 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

1399.160.6. Continuing Professional Development Course Approval.

(a) A licensee shall only be credited with continuing professional development hours if he or she takes a course from a board-approved provider with a valid, current approval as a provider or from an entity listed in Section 2532.6 (e)(1) of the Code.

(b) Courses related to the dispensing of hearing aids as offered by hearing aid manufacturers or companies shall be reviewed by the Board prior to the offering of the course. The continuing professional development provider must submit such request for course approval to the Board according to the timeline in Section 1399.151.1 (e). Such request shall include:

(1) The name of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

~~(b)~~(c) A licensee or a continuing professional development provider may voluntarily petition Board consideration of any courses offered by an approved provider or an entity listed in Section 2532.6 (e)(1) of the Code. The licensee or continuing professional development provider must submit such request for course approval to the Board according to the timeline in Section 1399.151.1 (e). Such request shall include:

(1) The name of the sponsoring institution, the Board issued professional development provider number (with the exception of those entities listed in Section 2532.6(e)(1)), the address, telephone number and contact person.

(2) Course title, date(s), location(s), and number of continuing professional development hours offered.

(3) Type and method of educational instruction and learner outcomes to be met.

(4) A course outline, course description, and instructor information and qualifications.

(5) If available, advertisements intended to be used by the provider to advertise the relevant course.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(b), (e)(1) and (e) (2), Business and Professions Code.

(6) Section 1399.160.7 is not being modified, however, the section is provided below to assist one in understanding the proposed changes in context.

1399.160.7.Board-Approved Providers.

(a) A continuing professional development provider shall meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) An applicant for continuing professional development provider shall submit a completed Continuing Professional Development Provider Application (form no. 77A-50, new 1/99), hereby incorporated by reference, remit the appropriate fees, submit a complete operational plan, and obtain a continuing professional provider number from the board to become a board-approved provider.

(c) A provider approval issued under this section shall expire twenty-four months after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the biennial renewal fee set forth in Section 1399.157 of these regulations.

(d) A provider approval that is not renewed by the expiration date may not be renewed, restored, reinstated, or reissued thereafter, but the provider may apply for a new approval.

(e) Board-approved provider status is not transferable.

NOTE: Authority cited: Sections 2531.95 and 2532.6(a), Business and Professions Code. Reference: Section 2532.6(e)(1) and (e)(2), Business and Professions Code.

Dated: November 30, 2010

_____

Annemarie Del Mugnaio
Executive Officer
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
& HEARING AID DISPENSERS BOARD

TITLE 16 CALIFORNIA CODE OF REGULATIONS

DIVISION 13.3

ARTICLE 2
APPLICATIONS

§ 1399.110. Applications.

In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice hearing aid dispensing safely because the applicant's ability to practice may be impaired due to mental or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available to the applicant. If after receiving the evaluation report the board determines that the applicant is unable to safely practice, the board may deny the application.

Authority cited: Sections 3328, Business and Professions Code. Reference: Sections 3352 and 3357, Business and Professions Code.

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ARTICLE 6
ENFORCEMENT

§ 1399.130. Violations

Notwithstanding the causes for action listed under 3401 of the Code, the Board may deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

(a) Commission of an act of sexual abuse or misconduct.

(b) To the extent a licensee has control over the terms of an agreement; including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.

(c) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel.

This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(d) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(e) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(f) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Authority cited: Section 726 and 3328, Business and Professions Code. Reference: Section 3401, Business and Professions Code.

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§ 1399.130.1. Required Actions Against Registered Sex Offenders

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

(3) Deny any petition to reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to deny or discipline a licensee under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to deny a license or discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

Authority cited: Section 3328, Business and Professions Code. Reference: Section 3401, Business and Professions Code.

1399.131. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the ~~director~~ board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" Sixth Edition, June 1997 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the ~~director~~ board in ~~his or her~~ its sole discretion determines that the facts of the particular case warrant such a deviation -- for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the license.

As used in this section, the term "sex offense" shall mean any of the following:

(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(b) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

(c) Any attempt to commit any of the offenses specified in this section.

(d) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section."

Authority cited: Section 3328, Business and Professions Code; Sections 11400.20 and 11425.50(e), Government Code. Reference: Sections 729, 3400,

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3401, 3402 and 3403, Business and Professions Code; ~~and~~ Sections 11400.20, ~~and~~ 11425.50(e), and 11500, Government Code; and Section 44010, Education Code.

DIVISION 13.4

ARTICLE 1
GENERAL PROVISIONS

§ 1399.150.3. Delegation of Functions.

(a) Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the board delegates and confers upon the executive officer of the board, ~~or in his or her absence, the executive director of the Medical Board,~~ all functions necessary to the dispatch of the board in connection with investigative and administrative proceedings under the jurisdiction of the board including, but not limited to, the ability to accept default decisions and ~~the authority~~ to approve settlement agreements for the revocation, surrender or interim suspension of a license.

(b)The executive officer is further authorized~~, subject to the approval of the board,~~ to investigate and evaluate each applicant for licensure under the Act; and to issue a license in conformance with the provisions of the Act and this chapter.

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ARTICLE 2
APPLICATION

§ 1399.151. Applications for License.

(a) An application for a license as a speech-language pathologist or audiologist shall be filed with the board at its principal office.

(b) Every application shall be typed or written in ink, signed under the penalty of perjury and accompanied by the appropriate application fee and by such evidence, statements, or documents as therein required.

(c) The applicant shall be notified, in writing, of the results of the evaluation of the application for license if the application is rejected.

(d) An applicant shall be deemed to have abandoned his or her licensure application if the requirements for licensure are not completed within two years from the date on which application was filed unless the applicant has requested extension by the board. An application submitted subsequent to an abandoned application shall be treated as a new application.

(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice speech-language pathology or audiology safely because the applicant's ability to practice may be impaired due to mental or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available

to the applicant. If after receiving the evaluation report the board determines that the applicant is unable to safely practice, the board may deny the application.

Authority cited: Section 2531.95, Business and Professions Code. Reference: Sections 2531.4 and 2532.1, Business and Professions Code.

ARTICLE 6
DISCIPLINARY GUIDELINES

1399.155 Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines July 16, 2004" that are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation is appropriate where the board, in its soul discretion, determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case and evidentiary problems.

Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the license.

As used in this section, the term "sex offense" shall mean any of the following:

(a) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(b) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

(c) Any attempt to commit any of the offenses specified in this section.

(d) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section."

Authority cited: Sections 2531.95, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 729, 2533 and 2533.1, Business and Professions Code; ~~and~~ Sections 11400.20, ~~and~~ 11425.50(e), and 11500, Government Code; and Section 44010, Education Code.

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ARTICLE 7
DENIAL, SUSPENSION AND REVOCATION OF LICENSURE

§ 1399.156. Unprofessional Conduct.

Unprofessional conduct as set forth in Section 2533 of the code includes, but is not limited to the following:

(a) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of the Act or these regulations.

(b) Committing any corrupt act, or any abusive act against a patient, which is substantially related to the qualifications, functions or duties of a speech-language pathologist or audiologist.

(c) Incompetence or negligence in the practice of speech-language pathology or audiology which has endangered or is likely to endanger the health, welfare, or safety of the public.

(d) Commission of an act of sexual abuse or misconduct.

(e) To the extent a licensee has control over the terms of an agreement, including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.

(f) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(g) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(h) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

DRAFT

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(i) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Authority cited: Section 726 and 2531.95, Business and Professions Code. Reference: Section 2533, Business and Professions Code.

§ 1399.156.5. Required Actions Against Registered Sex Offenders

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

(3) Deny any petition to reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

Authority cited: Section 2531.95, Business and Professions Code. Reference: Section 2533, Business and Professions Code; Section 11500, Government Code; and Section 290, Penal Code.

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X. Legislation

A. **Amendments to 1793.02 Civil Code Regarding Warranty Provisions for Assistive Devices-Hearing Aids**

The Legislative Proposal amending Civil Code Section 1793.02 was submitted to the DCA in early November and the DCA Legislative and Regulatory Affairs Unit is assisting the Board with finding an author for the bill. However, the Board may need to work with industry to secure an author as the proposal is not considered omnibus.

B. **Merger of the Speech-Language Pathologist and Audiologist/Hearing Aid Dispensers Practice Act(s)**

The Board is pursuing a legislative proposal to merge its Practice Acts, that of the Speech-Language Pathologist and Audiologist B&P Chapter 5.3 (Sections 2530 et.seq.) and the Hearing Aid Dispensers Chapter 7.5 (Sections 3300 et.seq.) pursuant to the merger of the two oversight bodies under AB 1535. Since dispensing audiologists are subject to many of the provisions of both Acts, and the authority to carry out the mandates of the professions is under one Board, it makes sense to merge the statutes for clarity in administering and enforcing the provisions. The DCA is assisting the Board with this endeavor and submitting the measure as an omnibus proposal which may be carried by either the Senate Business Professions and Economic Development Committee or the Assembly Committee on Business and Professions I am currently working with Legislative Counsel on the consolidation of some of the statutory provisions and the inclusion of others under one Article within the B&P Code.

C. **Entry Level Licensing Standards for Audiologists and 4th year Audiology Doctoral Students Completing the Required Professional Experience (Business and Professions Code Section 2532.25)**

At its July 26, 2010 meeting, the Board discussed the issue of amending the entry-level licensure requirements for AuD students as law currently requires a 12-month externship. This is problematic as some programs calculate completion of the 4th year in hours, not months, and the hours do not always total a full 12-month time period. If a student completes the externship early, the student is often forced to find other employment and supervision in order to complete the 12-month experience. Ms. Grimes had offered to work with the American Academy of Audiology to identify some standard in the number of hours required by university programs and that which would be accepted as a minimum standard for program accreditation. To date, the information is not available from the Academy as a separate task force has been assigned to define the standards for the 4th year externship.

Article 7. Speech-Language Pathology Corporations and Audiology Corporations

2536. Definition

A speech-language pathology corporation or an audiology corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are speech-language pathologists or audiologists are in compliance with the Moscone-Knox Professional Corporation Act, this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a speech-language pathology corporation or an audiology corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Speech-Language Pathology and Audiology Board.

(Amended by Stats. 1997, Ch 758)

2537. Unprofessional Conduct

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of the article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

(Added by Stats. 1980, Ch. 1314)

2537.1. Unprofessional Conduct - Corporations

A speech-language pathology corporation or an audiology corporation shall not do or fail to do any act that the doing or failing to do would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes and regulations to the same extent as a person holding a license under this chapter.

(Amended by Stats. 1994. Ch. 26)

2537.2. Directors and Officers

Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a speech-language pathology corporation or an audiology corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401.

(Amended by Stats. 1994, Ch. 26)

2537.3. Income

The income of a speech-language pathology corporation or an audiology corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of that shareholder or his or her shares in the speech-language pathology or audiology corporation.

(Amended by Stats. 1994, Ch. 26)

2537.4. Corporation Name

(a) The name of a speech-language pathology corporation under which it may render

professional services shall include one of the words specified in subdivision (a) of Section 2530.3 and the word "corporation" or wording or abbreviations denoting corporate existence.

(b) The name of an audiology corporation under which it may render professional services shall include one of the words specified in subdivision (b) of Section 2530.3 and the word "corporation" or wording or abbreviations denoting corporate existence.

(Renumbered by Stats. 1998, Ch. 1058)

2537.5. Regulations

The board may adopt and enforce regulations to carry out the purposes and objectives of this article, and the Moscone-Knox Professional Corporation Act, including regulations requiring any of the following:

(a) That the bylaws of a speech-language pathology corporation or an audiology corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person as defined in Section 13401 of the Corporations Code, or by the estate of a deceased person shall be sold to the corporation or to the remaining shareholders of the corporation within such time as the regulations may provide.

(b) That a speech-language pathology corporation or an audiology corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(Amended by Stats. 1998, Ch. 1058)

Article 9. Speech-Language Pathology and Audiology Corporations

1399.158. Citation.

These regulations may be cited and referred to as the "Speech-Language Pathology and Audiology Corporation Regulations."

NOTE: Authority cited: Sections 2531.95 and 3125, Business and Professions Code. Reference: Section 2539, Business and Professions Code.

1399.158.1. Requirements for Professional Corporations.

A professional corporation shall comply with the following provisions:

(a) The corporation is organized and exists pursuant to the General Corporation Law and is a professional corporation within the meaning of the Moscone-Knox Professional Corporations Act, Corporations Code Section 13400, et seq.

(b) Each shareholder, director and officer (except as provided in Section 13403 of the Corporations Code and Section 2537.2 of the code) holds a valid speech-language pathologist's or audiologist's license, as the case may be. A speech-language pathologist may be a shareholder, officer or director of an audiology corporation and an audiologist may be a shareholder, officer or director of a speech-language pathology corporation in accordance with the numerical restrictions set forth in Section 13401.5 of the Corporations Code.

(c) Each employee of the corporation who will practice speech-language pathology or audiology whether or not a director, officer, or shareholder, holds a valid speech-language pathologist's or audiologist's license.

NOTE: Authority cited: Sections 2531.95 and 2539, Business and Professions Code. Reference: Sections 2536 and 2536.1, Business and Professions Code; and Sections 13401, 13401.5, 13403, 13405, and 13406, Corporations Code.

1399.158.2. Shares; Ownership and Transfer.

(a) Where there are two or more shareholders in a speech-language pathology or audiology corporation and one of the shareholders:

(1) Dies; or

(2) Becomes a disqualified person as defined in Section 13401 (d) of the Corporations Code, for a period exceeding ninety (90) days his or her shares shall be sold and transferred to the corporation, its shareholders, or other eligible licensed persons, on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder becomes a disqualified person. The requirements of this subsection shall be set forth in the speech-language pathology or audiology corporation's articles of incorporation or by-laws.

(b) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he or she again becomes qualified to be a shareholder.

(c) The share certificates of a speech-language pathology or audiology corporation shall contain an appropriate legend setting forth the restrictions of subsection (b), where applicable.

(d) Nothing in these regulations shall be construed to prohibit a professional corporation from owning shares in a nonprofessional corporation or to prohibit a speech-language pathologist or audiologist from owning shares in more than one speech-language pathology or audiology corporation.

(e) The restrictions on the ownership and transfer of shares in a speech-language pathology or audiology corporation apply to both legal and equitable title to such shares.

NOTE: Authority cited: Sections 2531.95 and 2539, Business and Professions Code. Reference: Section 2539, Business and Professions Code; and Sections 13401, 13403, 13406 and 13407, Corporations Code.

1399.158.3. Corporate Activities.

(a) A speech-language pathology or audiology corporation may perform any act authorized by its articles of incorporation or by-laws so long as that act is not in conflict with or prohibited by the Speech-Language Pathologists and Audiologists Licensure Act or the regulations adopted pursuant thereto.

(b) A speech-language pathology or audiology corporation may enter into partnership agreements respectively with other speech-language pathology or audiology corporations or with speech-language pathologists or audiologists.

NOTE: Authority cited: Sections 2531.95 and 2539, Business and Professions Code.

Article 3. Licenses

License Required

3350. It is unlawful for an individual to engage in the practice of fitting or selling of hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the bureau under the provisions of this chapter. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all such fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this chapter. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a

business which engages in the fitting or selling of hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust which maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.
(Amended by Stats. 2000, Ch. 277; effective January 1, 2001.)

Employment of Hearing Aid Dispensers

655.2 No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed hearing aid dispenser shall employ any individual licensed pursuant to Chapter 7.5 (commencing with Section 3300) for the purpose of fitting or selling of hearing aids.

This section shall not apply to any physician and surgeon or medical corporation which contracts with or is affiliated with a comprehensive group practice health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(Added by Stats. 1979, Ch. 970.)

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
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PHONE (916) 263-2666 FAX (916) 263-2668
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LICENSE STATISTICAL REPORT

July 1, 2010 through December 31, 2010

TOTAL NUMBER OF LICENSEES

Speech-Language Pathology.....11107
- Inactive.....1083
- CPD Hold 250
- Delinquent.....1819
- Cancelled.....4734

Audiology..... 1515
- Inactive.....137
- CPD Hold 29
- Delinquent.....267
- Cancelled.....882

Speech-Language Pathology Assistants..... 1207
- Inactive..... 47
- CPD Hold 25
- Delinquent.....205
- Cancelled..... 67
  - AA/AS.....403
  - BA/BS.....769
  - BA/BS EQUIVALENT 45
  - (97 SLPA's not in database for degree designation)

RPE Temporary License 672
- Speech-Language Pathology 635
- Audiology..... 37

Registered Aides 227
- Speech-Language Pathology 170
- Audiology..... 57

LICENSES ISSUED

Speech-Language Pathology.....431
Audiologist..... 42
SLP RPE Applicants.....346
AU RPE Applicants..... 16
Speech-Language Pathology Assistants.....181
Aides - Speech-Language Pathology 11
Aides - Audiology 24

PENDING APPLICATIONS

Regular / Equivalency Applicants 32
Speech-Language Pathology Assistants 19

LETTERS OF GOOD STANDING

253

LICENSE STATISTICAL REPORT

July 2010- December 2010

TOTAL NUMBER OF LICENSES 1677

PROCESSED OR LICENSES ISSUED

Hearing Aid Dispensers 28

Temporary ……. 5

Temporary Trainees..... 33

Branch Office Licenses…… 67

Non-Temp Applications (no license rqstd)…….. 41

To DAU Status …… 23

PENDING APPLICATIONS

Recently received (HT/HTL)……. 10

Branch Office Licenses recently rec'd …… 10

Further documentation needed …….. 7
(fingerprints, authorization from other states,
Incomplete applications received)

HEARING AID DISPENSERS EXAMINATION STATISTICS
July 2010- January 2011

Practical Exam				
Exam Dates	**July 2010**	**November 2010**		
# of Candidates	**48**	**49**		
Total Passed	**23**	**29**		
AU/AuD Prog.	**10/53%***	**16/80%****		
HAD	**12/46%**	**11/41%**		
MD	**1/33%**	**2/100%**		
Total Failed	**25**	**20**		
AU/AuD Prog/aide.	**9/47%**	**4/20%**		
HAD	**14/54%**	**16/59%**		
MD	**2/66%**	**0**		

***3/10 passed after 2nd or 3rd attempt.
****7/16 passed after 2nd or 3rd attempt.

Written Exam				
Passed	% Passed	Failed	% Failed	Total Exams
40	63%	24	38%	64
Audiologists or those in an audiology program appear to pass at 90% or higher.				

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FY 2010-2011 ENFORCEMENT STATISTICS

SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY

JULY 1, 2010 THROUGH DECEMBER 31, 2010

COMPLAINT ACTIVITY

Opened.....35
Closed 49
Pending 70

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency 1
Incompetence/Negligence.....1
Unprofessional Conduct 11
Unlicensed/Unregistered Activity.....3
Criminal Charges/Convictions.....14
Substance Abuse 1
Fraud 3
Non-Jurisdictional.....0
Other.....1

Processing Times for Closed Complaints
Months:
0-3 9
4-6 26
7-9 2
10-12 1
12+.....11

INVESTIGATION ACTIVITY

Opened …..…….….. 6
Closed……..…….. 11
Pending…….…… 6

Processing Times for Closed Investigations
Months:
0-3 0
4-6 3
7-12 4
13-24 4
25-36 0

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation 7
Information on File.....10
Insufficient Evidence 2
Subject Educated 3
Non-Jurisdictional..... 0
Compliance Obtained..... 1
Referral to Government Agency..... 0
Other..... 5
Citation 14
Conditional License Issued ……..……...1
Referred to AG/DA ……..6

TOTAL: 49

PROBATION CASES ……..22

Open …….9
Tolled …….. 8
Conditional Licenses ……..…5

CITATIONS ISSUED …….. 14

ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened ……6
Closed …….. 2
Pending …….. 13

Processing Times for Closed AG Cases (Years):
0-1… 1
1-2..... 0
2-3..... 1
3-4..... 0
4 0

ADMINISTRATIVE FILINGS

Accusations..... 4
Statement of Issues 0
Petitions for Penalty Relief..... 0
Petition for Psychiatric Evaluation 0

ADMINISTRATIVE FINAL DECISIONS

Revocation 0
Revocation, Stayed, Probation 0
Revocation, Stayed, Probation, Suspended. 0
License Surrender..... 1
License Denied 0
Petitions for Penalty Relief Denied 0
Petitions for Penalty Relief Granted..... 0
Petitions for Penalty Relief Withdrawn 0
Reprimands/Reprovals 1
Stipulated Settlement Order ……. 0
ISO's Ordered 0
Declined by Attorney General……..0
Conditional License Issued…… . 0

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency 0
Incompetence/Negligence 0
Unprofessional Conduct 1
Unlicensed/Unregistered Activity 0
Criminal Charges/Convictions 1
Fraud..... 0
Other …….…… 0

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ENFORCEMENT STATISTICS

HEARING AID DISPENSING, FY 2010-2011

JULY 1 THROUGH DECEMBER 31, 2010

COMPLAINT ACTIVITY

Opened	96
Closed	54
Pending	139

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency	.0
Incompetence/Negligence	.5
Unprofessional Conduct	67*
Unlicensed/Unregistered Activity	.6
Criminal Charges/Convictions	.14
Substance Abuse	.0
Fraud	.3
Non-Jurisdictional	.0
Other	.1

Processing Times for Closed Complaints

Months:	
0-3	.15
4-6	.17
7-9	.15
10-12	.1
12+	.0

INVESTIGATION ACTIVITY

Opened	.1
Closed	.6
Pending	16

Processing Times for Closed Investigations

Months:	
0-3	.0
4-6	.1
7-12	.1
13-24	.3
25-36	.1

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation	.5
Information on File	.9
Insufficient Evidence	.4
Subject Educated	.4
Non-Jurisdictional	.1
Compliance Obtained	.0
Referral to Government Agency	.0
Other	.9
Citation	.2
Conditional License Issued	...0
Referred to AG/DA	17
Mediated	3

Total: 54

*39 of the Unprofessional Conduct complaints were advertising violations

PROBATION CASES 2

Open	0
Tolled	1
Conditional Licenses	0

CITATIONS ISSUED 3

ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened	0
Closed	0
Pending	5

Processing Times for Closed AG Cases

Years:	
0-1	1
1-2	0
2-3	1
3-4	0
4	0

ADMINISTRATIVE FILINGS

Accusations	1
Statement of Issues	0
Petitions for Penalty Relief	0
Petition for Psychiatric Evaluation	0

ADMINISTRATIVE FINAL DECISIONS

Revocation	0
Revocation, Stayed, Probation	1
Revocation, Stayed, Probation, Suspended.	0
License Surrender	1
License Denied	0
Petitions for Penalty Relief Denied	0
Petitions for Penalty Relief Granted	0
Petitions for Penalty Relief Withdrawn	0
Reprimands/Reprovals	0
ISO's Ordered	0
Declined by Attorney General	0
Conditional License Issued	0

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency	0
Incompetence/Negligence	1
Unprofessional Conduct	0
Unlicensed/Unregistered Activity	0
Criminal Charges/Convictions	0
Fraud	1
Other	0

Outside Links to Meeting Materials

HAD Committee Meeting

VI. http://www.lyrichearing.com/what-is-lyric-hearing-aid/about-lyric-hearing-aid/

SLP Committee

III. http://www.asha.org/docs/html/PI2010-00315.html

IV. http://www.asha.org/docs/html/GL2004-00054.html

Full Board Meeting

XI http://www.dca.ca.gov/hearingaid/pubs/sum09_news.pdf