



## **BOARD MEETING NOTICE AND AGENDA**

**Los Angeles Airport Marriott  
5855 Century Blvd.  
Los Angeles, CA 90045  
(916) 263-2666**

### **Board Members**

Alison Grimes, Dispensing Audiologist, Board Chair  
Patti Solomon-Rice, Speech-Language Pathologist, Vice Chair  
Dee Parker, Speech-Language Pathologist  
Debbie Snow, Public Member  
Jaime Lee, Public Member  
Deane Manning, Hearing Aid Dispenser  
Amnon Shalev, Hearing Aid Dispenser  
Marcia Raggio, Dispensing Audiologist  
Rodney Diaz, Otolaryngologist

**August 11, 2016 - 1:00 p.m. – 5:00 p.m. (or until completion of business)**

### **Audiology Practice Committee Meeting**

1. Call to Order / Roll Call / Establishment of Quorum
2. Review and Approval of the May 12, 2016 Committee Meeting Minutes
3. Public Comment for Items not on the Agenda  
*The Committee may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))*
4. Discussion and Possible Recommendations to Full Board Regarding Sales Practices that Lock Out Hearing Aids Restricting Consumer Access for Required Audiology and Hearing Aid Services
5. Update Regarding the Presidential Council of Advisors on Science and Technology (PCAST)
  - a. Over-the-Counter Hearing Aids without Medical Clearance
6. Discussion and Possible Recommendations to Full Board on Risks to Consumers Due to California Children's Services (CCS) Program Issues
  - a. Cochlear Implant Requirements and Authorization Delays
  - b. Shortage of Pediatric Audiologists
7. Adjournment

## **Upon Conclusion of the Audiology Practice Committee Meeting:**

### **FULL BOARD MEETING**

1. Call to Order / Roll Call / Establishment of Quorum

### **Closed Session**

2. Pursuant to Government Code Section 11126 (c) (3), the Board will Meet in Closed Session to Deliberate on Disciplinary Matters

### **Return to Open Session**

3. Public Comment for Items not on the Agenda

*The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))*

4. Review and Approval of the May 12-13, 2016 Board Meeting Minutes
5. Update on CPS-HR Workload and Staffing Analysis Report
6. Executive Officer's Report
  - a. Administration Update
  - b. Budget Report
  - c. Licensing Report
  - d. Practical Examination Report
  - e. Enforcement Report
  - f. Board Strategic Plan Action Plan
7. Discussion of the Sunset Oversight Review
  - a. Sunset Review Timeline
  - b. Sunset Review Background Questionnaire
  - c. Process
  - d. Potential Legislative Concepts in Sunset Review Report
  - e. Board Sunset Committee
8. Discussion and Possible Action on the Proposed Board Member Manual
  - a. Board and Committee Structure
  - b. Frequency of Meetings
  - c. Committees
    - i. Business area (legislative, enforcement, etc.) vs. practice committees
9. Recess Until August 12, 2016 at 9:00 a.m.



**August 12, 2016 - 9:00 a.m. – 5:00 p.m. (or until completion of business)**

1. Call to Order / Roll Call / Establishment of Quorum
2. Update on English Proficiency Test Requirements and Foreign-Educated Speech-Language Pathology Applicants
3. Discussion and Possible Action on Auditing the Supervision of Speech-Language Pathology Assistants
4. Speech-Language Pathologist Credential/Variable Term Waiver Update
5. Discussion and Possible Action on Audiology Committee Report and Recommendations
6. Update on METX, LLC v. Wal-Mart Stores Texas, LLC (E.D. Tex. 2014) 62 F.Supp.3d 569Decision
7. Proposed Regulations – Discussion and Possible Action
  - a. Title 16, CCR, Section 1399.170 – Speech-Language Pathology Assistants
8. Legislation Update, Review, and Possible Action
  - a. AB 1950 (Maienschein) Hearing aids: audio switch
  - b. AB 2317 (Mullin) California State University: Doctor of Audiology degrees
  - c. AB 2859 (Low) Professions and vocations: retired category: licenses
  - d. SB 1155 (Morrell) Professions and vocations: licenses: military service
9. Discussion on Procedures Regarding Board Executive Officer Evaluation
10. Future Agenda Items and Future Board Meeting Dates
  - a. September/October – Additional Meeting to Discuss Sunset Report - TBD
  - b. November 3-4, 2016 – Sacramento
  - c. February 9-10, 2017 – San Diego
  - d. May 11-12, 2017 – TBD
  - e. August 10-11, 2017 – TBD
11. Adjournment

Agendas and materials can be found on the Board's website at [www.speechandhearing.ca.gov](http://www.speechandhearing.ca.gov).

Action may be taken on any item on the Agenda. The time and order of agenda items are subject to change at the discretion of the Board Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limited resources. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

The meeting facility is accessible to persons with a disability. Any person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board office at (916) 263-2666 or making a written request to Breanne Humphreys, Board Operations Manager, 2005 Evergreen Street, Suite 2100, Sacramento, California 95815. Providing your request at

least five (5) business days before the meeting will help ensure availability of the requested accommodation.



## **AUDIOLOGY PRACTICE COMMITTEE MEETING MINUTES**

May 12, 2016

2005 Evergreen Street, "Hearing Room"  
Sacramento, CA 95815

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

**May 12, 2016**

### **Audiology Practice Committee Meeting**

- Call to Order / Roll Call / Establishment of Quorum

Alison Grimes, Committee Chair, called the Audiology Committee meeting to order at 1:15 p.m. Ms. Grimes called roll; three members of the Committee were present and thus a quorum was established.

#### Committee Members Present

Alison Grimes, Committee Chair  
Dee Parker, Committee Member  
Marcia Raggio, Committee Member

#### Staff Present

Paul Sanchez, Executive Officer  
Breanne Humphreys, Program Manager  
Kelsey Pruden, Legal Counsel  
Anita Joseph, Enforcement Coordinator  
Karen Robison, Enforcement Analyst  
Marti Shaffer, Enforcement Analyst  
Bryce Penney, DCA Web Cast

#### Guests Present

Becky Binge, California Academy of Audiology (CAA)  
Robert Hanyak, University of the Pacific  
Tara Welch, DCA Legal  
Amy White, CAA

- Committee Appointment
  - Ms. Grimes, Committee Chair, appointed Dee Parker as a Committee Member.
- Review and Approval of November 6, 2014 Meeting Minutes
  - The committee can accept the November meeting minutes but cannot approve due to the change in members of the committee.



**M/S/C Raggio/Parker**

- **The committee voted to accept the November meeting minutes as written with minor edits. The motion carried 3-0**

- Public Comments for Items not on the Agenda

Amy White requested that the committee include a discussion of manufacturers locking hearing aids from being serviced by companies other than the original manufacturer on the next agenda. Ms. Grimes believe that this should be an item for the full board agenda in order to include more input.

- Update on Discussion with California Children's Services (CCS) Program Regarding the Lack of Access to Audiology Services
  - Reporting Requirements for Cochlear Implant Centers
    - i. Ms. Grimes reported that there was a teleconference meeting with CCS on March 29, 2016, with the acting CCS chief. CCS is going through a staff change and some of the issues discussed were deferred until the new chief is appointed. Ms. Grimes stated that there continues to be a concern that children insured under CCS receive a different level of care of consumer protection and access to services, compared to services received by children insured under private insurance plans. Since the meeting, CCS has come out with new provider standards. The most important change in these new standards are reporting requirement to provide information on children who receive cochlear implants that are insured under CCS. In the past 4-6 weeks, CCS came out with a mandate that this report be submitted by June 1, 2016. The report needs to be retroactive to January 2015 and should report all children, covered under CCS, who were implanted with cochlear implants. There are two letters that were made available, expressing concerns about what was being requested and the short deadline to respond. Ms. Grimes expressed concerns about providing information that CCS should already have since CCS approves the surgeries as well as the deadline requirement.
- Discussion and Possible Recommendation to Clarify Audiology Licensing Requirements
  - In reviewing the language pertaining to Audiology training programs relative to supervised clinical experience (SCE) and required professional experience (RPE). It was noted that there is some confusion as to the required number of hours, formerly known as clock hours. The number of hours required for Audiologists are distinct from SLP as to when these hours are obtained and how it relates to the "fourth year", or the final RPE period. Ms. Raggio reported that the American Academy of Audiology meeting in Phoenix, there was much talk about changing the fourth year to a "residency model". Ms. Raggio has reached out to get more information on this subject but does not have any further information at this time. Robert Hanyak, Department Chair, University of the

Audiology Practice Committee  
Meeting Minutes  
May 12, 2016

Pacific, further discussed the residency model. He also advised that this was going to be a topic of discussion at the October AuD Education Summit held by ASHA

- i. Mr. Sanchez recommended that for establishing the number of clock hours for supervised clinical experience, a subcommittee be formed to gather data and analyze the numbers for a future agenda item. Ms. Grimes delegated herself and Ms. Raggio to make up the subcommittee and report back to the committee.

The Audiology practice committee meeting adjourned at 2:15 p.m.







## MEMORANDUM

<b>DATE</b>	August 10-11, 2016
<b>TO</b>	Audiology Practice Committee
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Update Regarding the President's Council of Advisors on Science and Technology Report</b>

### BACKGROUND

The attached announcement and report from the President's Council of Advisors on Science and Technology, published October 26, 2015, is provided as a background document.

### ACTION REQUESTED

These documents are provided for your information. No action is requested at this time.



EXECUTIVE OFFICE OF THE PRESIDENT  
PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY  
WASHINGTON, D.C. 20502

October 2015

Dear Mr. President,

Untreated hearing loss, especially in older Americans, is a substantial national problem. Only a fraction of consumers who need assistance with hearing obtain and use hearing aids, in large part because of high cost, complex dispensing procedures, social stigma, and performance shortfalls. While the contributing factors are complex, your President's Council of Advisors on Science and Technology (PCAST) believes that a few simple actions by the Federal Government could dramatically enhance the pace of innovation and level of competition in this domain, leading to rapid decrease in cost and improvement in capability, convenience, and use of assistive hearing devices. We expand on these ideas in this letter report.

We focus here only on devices to assist the tens of millions of Americans with age-related, progressive, mild-to-moderate hearing loss. PCAST recognizes that many Americans have severe hearing impairment or deafness from congenital or illness/injury causes, but we do not address these categories of need here.<sup>a</sup>

**I. Age-related hearing loss is a substantial national problem.**

Age-related hearing loss affects many Americans, with older adults particularly at risk—a quarter of adults between 60 and 69 years, over half in the range 70-79 years, and almost 80 percent of those older than age 80 have difficulty hearing.<sup>1</sup> The absolute number of those affected, already almost 30 million,<sup>2</sup> is expected to grow as the population ages.

Untreated hearing loss is statistically associated with higher risks of social isolation; depression; dementia; falls with injury; and inability to work, travel, or be physically active.<sup>3,4,5,6,7,8,9</sup> While the National Institutes of Health is planning a large randomized trial to supplement these correlational findings, the volume of studies, the number of correlations, and their clinical plausibility are indicative of the types of problems that may be avoided with improved hearing. Recognizing the importance of good hearing health, *Healthy People 2020* has set a national goal to increase the use of hearing aids and other assistive devices for hearing.<sup>10</sup>

While untreated hearing loss likely impairs physical and cognitive health, only a minority of Americans with hearing loss (perhaps 15-30 percent) seek out and use assistive hearing technologies.<sup>11,12,13,14,15</sup> Adoption rates are even smaller for people with lower income and for racial and ethnic minorities.<sup>16,17</sup>

**II. The market for hearing aids is characterized by high cost and low innovation.**

PCAST believes that cost is the largest barrier to hearing-technology adoption. A 2014 survey found that the average price of one hearing aid was \$2,363, with premium models costing \$2,898.<sup>18</sup> Many, if not

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<sup>a</sup> The National Academy of Medicine (NAM) is engaged in a much broader study on hearing health care, which is likely to be completed by mid 2016. It is supported by the Food and Drug Administration, Centers for Disease Control and Prevention, Hearing Loss Association of America, National Institute on Aging, National Institute on Deafness and Other Communication Disorders, Department of Defense, and Veterans Affairs. It will aim to address topics including the full range of hearing loss in adults at all ages; third-party payment systems; new delivery models; innovative approaches such as telehealth, mobile health, and team-based care; and specific challenges for select populations.



most, individuals need two hearing aids, one in each ear, doubling the cost. High costs are a major obstacle for many people. One survey found that 64 percent of people with the most serious hearing loss reported that they could not afford a hearing aid, and over 75 percent identified financial factors as a barrier.<sup>19</sup>

Most people pay for hearing aids completely out of pocket since traditional Medicare and most private insurance plans do not cover the cost of hearing aids or their fitting. The lack of Medicare coverage is widely cited as a major barrier to access, with one survey finding 50 percent of consumers identifying lack of insurance coverage as a barrier to their acquiring a hearing aid.<sup>20</sup> That failure dates from the original 1966 Medicare amendments to the Social Security Act, which bar Medicare from covering hearing aids. Congressional action is required to change this policy, and legislation to do just that has been introduced multiple times by members from both parties. When legislation has been introduced to change this policy, the changes are typically found to be prohibitively costly due to the combination of high cost and large number of consumers in need of hearing aids. This analysis is based on the current high average prices of hearing aids. If market forces were to lower costs, the analysis and potential for Congressional action would change.

Hearing aids have not experienced the dramatic reductions in price and increases in features that have been routinely seen across consumer electronics. When compared in complexity to today's smartphones costing a few hundred dollars each, even premium-model hearing aids are simple devices but can cost several thousand dollars. A 2010 study suggested that a hearing aid's components then cost less than \$100; the number today is likely less.<sup>21</sup> Innovations in premium models, while real, have been remarkably expensive for the consumer.<sup>22</sup>

Compared with other kinds of consumer electronics, the innovation cycle for hearing aids is slow. Features such as Bluetooth and WiFi connectivity or a smartphone app interface, routine in other consumer electronics, command price differentials of as much as \$500-\$1,000 in premium hearing aids. Interestingly, studies suggest that premium and basic hearing aids offer comparable levels of hearing improvement.<sup>23</sup>

Beyond today's models, PCAST sees many opportunities for both incremental and disruptive improvements in assistive hearing technologies, none of which should be intrinsically expensive in a competitive market. In the near future, people could check their hearing using automated hearing tests available online or through common smart devices.<sup>24</sup> Interfaces between smart devices and users could allow adaptive self-fitting by devices in response to user needs.<sup>25</sup> Custom earbuds and configurations could be made routinely by 3D printing.<sup>26</sup> Wirelessly integrated with smartphones and other wearable electronics, hearing aids could merge with "hearables" (wearable audio technology discussed below), extending devices such as today's Bluetooth earpieces to become general interfaces to the cyber world. Assistive devices could correspondingly tap into much more computational power, enabling advances such as noise-source identification and cancellation, speech localization and recognition, and auditory (or visual closed-caption) reconstruction.<sup>27</sup> Conversations in noisy environments or at a distance across crowded rooms—impossible today even for people with normal hearing—could become convenient and routine. Hearables, as interfaces to cyber-assistance generally, could offer forgotten names (via face recognition), health alerts (Fitbit equivalents), navigational information (indoor and outdoor GPS), and much more.

The hearing-aid industry is highly concentrated and lacks a steady influx of new innovative companies. Following a wave of acquisitions, just six hearing-aid manufacturing companies (mostly based outside of the United States) have been dominant for the past 15 years. In 2012, these six companies accounted for 98 percent of the global market.<sup>28</sup> There is considerable evidence that hearing aids can be profitably sold for a fraction of today's end-user cost. The Veterans Health Administration, which accounts for approximately 20 percent of all hearing aids dispensed in the United States, purchases hearing aids from the major



manufacturers at a cost of about \$400 per unit.<sup>29</sup> Costco now accounts for about 10 percent of all hearing aids sold, and it sells its house brand (reportedly manufactured by one of the big six manufacturers) for about one-third of the typical retail price, including the cost of fitting.<sup>30,31</sup> Some Medicare Advantage insurers provide partial hearing-aid coverage; United Health notably uses its own hearing aid manufacturing and dispensing networks, reportedly at costs a small fraction of retail prices.

Cost is not the only barrier to more widespread use of hearing technology. Even in European countries where hearing aids are supplied free or at low cost, adoption rates are not what they should be.<sup>32,33,34</sup> Social stigma—the association of hearing aids with old age or infirmity—is a barrier. Public education can play a role in expanding use, and the arrival of the Baby Boomers as new seniors with different attitudes, including greater familiarity with wearable electronics and greater use, may shift attitudes toward social acceptance. But, robust technology innovation could also be a potent force for wider use – with the introduction of devices that are simpler, better, and more fashionable.

### **III. Current distribution channels create barriers to access.**

Consumers find it difficult to shop for the best value. Bundling is a common practice in hearing aids, where patients pay a single fee for the professional evaluation, the hearing-aid devices, and follow-up and adjustments of the device after it is fitted and worn for an initial period. In 2014, more than 80 percent of hearing-care professionals used the practice of bundling.<sup>35</sup> A *Consumer Reports* analysis found an average markup of 120 percent from the wholesale device price, so that the technology accounts for less than half of the bundled price. Surveys suggest that many people do not use the services included in the bundle, with approximately one-quarter of people never using a follow-up appointment.<sup>36</sup> Moreover, with bundling, patients are often locked into the services of one professional and cannot easily shop around or change location.

Complex State regulations restrict the distribution channels for hearing aids. Most States require that hearing aids be sold only by licensed “credentialed dispensers,” typically audiologists; ear, nose, and throat physicians; and licensed hearing-aid specialists. Audiologists and hearing-aid dispensers typically offer a limited selection of brands and models. About 20 percent sell only one brand,<sup>37</sup> and surveys find that—even when multiple brands are available—dispensers recommend a single brand to 75-80 percent of their patients.<sup>38</sup> In recent years, the big six manufacturers have expanded into retail by purchasing chains of audiologist and dispenser practices,<sup>39</sup> while independent dispensers are frequently offered contracts and incentives that favor a single brand.<sup>40</sup>

Vertical integration practices such as these mean that hearing-aid dispensers have a disincentive to selling hearing aids from a wide range of manufacturers. This has inhibited new device designers and manufacturers from releasing competitive devices because they must establish their own dedicated dispensing channels or only sell on-line in States that allow it. As a result of such vertical integration, a person wanting to try out different kinds of hearing aids sees fewer differentiated, innovative devices in the marketplace and must visit multiple hearing-aid dispensers in-person and on-line to sample what is available. The difficulty in obtaining clear information can be a significant burden for a person seeking to buy a hearing aid.

Studies of dispensers have found that average dispensing rates of various hearing-aid features do not follow evidence-based practice (EBP) guidelines, and that dispenser preference has a bigger influence on the brand recommended than the needs of the patient population served by that dispenser.<sup>41</sup> A different study of hearing-aid dispensers found that they did not heavily use peer-reviewed research in recommending a



particular brand of hearing aid, relying instead on information from manufacturers (and presumably distribution agreements).<sup>42</sup> Findings like these suggest that vertical integration reduces consumer choice.

In addition to regulating the professions that may dispense hearing aids, some States prohibit mail and Internet orders outright or allow them only after a prior in-person sale.<sup>43</sup> There are limited statistics on the percentage of hearing aids distributed by mail or online, but the most recent statistics available (from 2008) suggest that less than five percent are distributed by mail.<sup>44</sup> A recent analysis suggests that approximately 14 States have some type of restrictions on mail order or Internet sales.<sup>45</sup> These State legal restrictions further limit consumer choice and the ability to comparison shop. We note that some of the State regulations on hearing aids may be pre-empted by regulations of the Food and Drug Administration (FDA). A Federal appellate court has recently overturned one State's law for this reason.<sup>46</sup>

In addition to consumers not being able to find the best value, it is unclear how well these distribution arrangements are helping consumers find hearing aids that improve their hearing. For example, as many as 12 to 18 percent of the 3 million hearing aids sold in the United States each year may end up not being used,<sup>47</sup> and a *Consumer Reports* study in 2009 suggested that two-thirds of hearing aids were misfit.<sup>48</sup> There are many reasons for these poor experiences, including that current hearing aids may require practice and time in use to achieve maximum effectiveness; the devices often do not restore normal hearing as fully as people expect; or there are physical challenges managing the devices for those with arthritis or limited dexterity.<sup>49</sup> Because there are many ways to help consumers adapt, and innovation can drive greater usability, PCAST finds that today's distribution and dispensing models are inadequate, especially to meet future needs.

#### **IV. Modest changes in FDA regulation could dramatically increase accessibility and innovation for tens of millions of Americans, without compromising patient safety.**

FDA's current regulatory framework involves two fundamental types of devices, which are differentiated by their intended use (see the appendix for more information):

The FDA defines a Personal Sound Amplification Product (PSAP) as a wearable consumer electronic product that is intended for non-hearing-impaired consumers to amplify sounds in certain environments "such as for recreational activities." A PSAP must not be "intended to compensate for impaired hearing"—that describes a hearing aid. Because PSAPs are "not intended to treat, cure, or mitigate disease and do not alter the structure or function of the body," the FDA forbears from asserting any regulatory authority over them, except incidentally under the Radiation Control for Health and Safety Act of 1968 (which applies to all sound amplification equipment and, among other things, seeks to ensure that there are volume limits to prevent ear damage).<sup>50,51</sup>

The FDA defines a hearing aid as "any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing." (21 CFR 801.420) All hearing aids must comply with specific requirements regarding patient and professional labeling identified in 21 CFR 801.420.... Additionally, all hearing aids must comply with the required conditions for sale, as stated in 21 CFR 801.421." Current FDA regulations for hearing aids impose requirements on both consumers and manufacturers, as follows.

*(A) FDA requires that consumers undergo a medical evaluation before they can purchase any type of hearing aid.*

With the evaluation requirement instituted in the 1970s, FDA regulations sought to have users evaluated by a physician to ensure the hearing aid would treat the underlying causes of the hearing loss, although it allowed consumers to waive the requirement of a medical evaluation by simply signing a form. Today a



majority of people waive that requirement; several sources suggesting that between 60 and 85 percent of patients now forgo the medical evaluation.<sup>52</sup> While encouraging patients to seek medical evaluation is a laudable goal, it is important to weigh the benefit of such a requirement in terms of the frequency and severity of the conditions that are likely to be detected against the risks and costs that result from greater barriers to obtaining assistance for mild-to-moderate hearing loss among tens of millions of aging Americans.

FDA, for example, has noted that hearing loss in some patients might be caused by acoustic neuroma, a benign tumor arising from the lining of the vestibular nerve. However, this cause is extremely rare. Acoustic neuroma has an incidence of only 1 in 90,000 individuals<sup>53</sup> and is associated with unilateral, rather than bilateral, hearing loss, as well as other symptoms such as dizziness and headache. By contrast, the incidence of glaucoma in North America is 3.54 percent,<sup>54</sup> but this has not prevented reading glasses from being sold over the counter.

Ear wax is another often-cited issue. A consumer might mistakenly purchase a hearing aid when simple ear-wax removal at a clinic or local drugstore might be all that is needed.<sup>55,56,57</sup> A comparison to vision is again useful. Over 35 percent of adults age 70-74 age have cataracts that will not be mitigated by eyeglasses. Even so, older adults are not prevented from “mistakenly” purchasing over-the-counter reading glasses. Individuals are expected to check with an eye professional when they suspect vision loss from another cause.

More generally, concern has been expressed that sudden or unilateral onset of hearing loss could indicate other problems for which patients might seek medical evaluation. While there are anecdotal reports of rare, serious conditions being found during the required medical evaluation or examination by a hearing aid professional, such reports do not address the question of whether the affected patients would have instead sought treatment anyway through conventional medical channels, nor are these reports statistically adequate for estimating the actual frequency of such rare cases. Carrying through with the vision analogy, there are frequent occurrences of sudden or unilateral visual impairment due to retinal tears, retinal vein or artery occlusion, or ocular tumors, but those incidences have not prevented the marketing of easy to access over-the-counter (OTC) or commercial vision enhancement for people who need it. Patients are trusted to seek emergency medical help in the case of sudden and unusual visual events.

PCAST concludes that Americans would be better served if non-surgical air-conduction devices intended to address bilateral, gradual-onset, mild-to-moderate age-related hearing loss (referred to here as “basic” hearing aids) were available over-the-counter. Such devices meet the criteria for OTC sale, which is appropriate when consumers are able to self-diagnose, self-treat, and self-manage a disease or condition. For such devices, the requirement for a medical examination (or a written waiver of such examination) provides little patient benefit, while acting as a barrier to access for the millions of Americans needing hearing assistance. FDA could require such devices to carry a warning about “red flag” symptoms of conditions for which medical attention should be sought, while continuing to require medical examination for hearing aids that do not qualify as “basic.” Simple hearing tests to aid consumers in purchasing such OTC hearing aids should also be available OTC, including on-line and in stores.

FDA’s regulation of “basic” hearing aids, then, should be similar to FDA’s regulation of reading glasses, which are also classified as “medical devices.” In making some hearing aids and tests available as OTC products, FDA should preempt State requirements that the OTC devices be sold by credentialed dispensers. While this approach would lead to changes in the business models of many audiologists and hearing-aid dispensers, PCAST believes that the net benefit to the public would be large and positive. The analogy with vision is again useful. While complex eye cases require prescription medical devices and professional



dispensing, people are able to treat a wide array of uncomplicated conditions with OTC technology. In these cases, consumers can judge whether the device meets their need, and, if it does not, they can visit a professional to obtain a more advanced device, as well as comparison shop.

With respect to hearing aids not deemed appropriate for OTC sales, PCAST believes that new actions by the Federal Trade Commission (FTC) are needed to increase consumer choice, promoting competition that benefits both price and innovation. The Federal Trade Commission's "Eyeglass Rule" (16 CFR Par 456), dating from 1978, ended bundling practices by ophthalmologists and opticians, requiring them to give consumers a portable copy of their refraction prescriptions. By the Fairness to Contact Lens Consumers Act (PL 108-164), Congress gave FTC authority to ensure that contact lenses could readily be purchased by mail, phone, or (today) the Internet, independent of State regulations that restricted who was allowed to dispense. Analogous actions, which may also benefit from new legislative authority, are needed for assistive hearing devices.

*(B) FDA also places requirements on manufacturers of air-conduction hearing aids.*

Air-conduction hearing aids are classified as Class I medical devices (FDA's least-regulated category). Class I medical devices are exempt from any requirement for premarket notification to FDA and do not require FDA clearance before marketing. Their manufacturers are required, however, to maintain an annual registration with FDA (at a cost of several thousand dollars) and to register their devices at the time that they are first marketed. More importantly, air-conduction hearing aids are *not* exempted from FDA's Quality System Regulation (QSR), nor from its record-keeping and complaint-process regulations.

While this regulatory framework is appropriate for a wide range of medical products under FDA's regulatory authority, there are narrow cases when even such apparently light regulation turns out to have large negative unintended consequences. Most air-conduction hearing aids represent such a case.

FDA's QSR (often referred to as "good manufacturing practices" or GMP), even at its least cumbersome form (Inspection Level 1, Abbreviated), mandates a system of documentation of production and process controls (P&PC) and corrective and preventive actions (CAPA) by manufacturers.<sup>58</sup> QSR seeks to assure product quality by assuring that controllable design and manufacturing processes exist and are followed. This makes sense for things like pharmaceuticals and medical devices, for which a design or manufacturing failure can lead to patient harm. In other areas (including some kinds of software apps for smartphones), such regulation may not be burdensome.

For hearing aids needed for age-related hearing loss, however, an inherent failure of the product to perform does not provide an increased health risk to the user. Furthermore, the QSR/GPM fundamentally conflicts with the nature of the consumer-electronics industry. The consumer-electronics industry's fast innovation cycles for both design and manufacturing processes can lead rapidly to increased performance and lower cost. Volume production and open consumer preference are strong feedback mechanisms to drive product performance and manufacturing quality. In short, the consumer electronics industry focuses on product rather than process.

PCAST's assessment is that QSR and related regulatory requirements on documentation are more stringent than necessary. Instead, FDA could foster innovation by using quality standards appropriate to the nature of the devices and compatible with broadly accepted industry approaches towards quality management in the consumer electronics industry. Such standards could be developed in conjunction with the Consumer Electronics Association (CEA), which is currently developing standards and performance measurements according to features and quality for PSAPs.



It is important to emphasize that PCAST does not favor weakening FDA’s overall regulatory framework for medical devices. Indeed, each device area needs to be considered in the context of the relative risks and benefits to consumers. Our concerns here are focused on the special circumstances concerning non-surgical air-conduction devices intended to address bilateral, gradual onset, mild-to-moderate age-related hearing loss – where regulations have been largely unchanged since 1976; where dramatic advances in consumer electronics have transformed audio products; where the medical risks are extremely low; and where the needs of tens of millions of Americans are not being adequately met by the existing market.

**V. Personal Sound Amplification Devices illustrate the negative consequences of the barriers to competition in the hearing aid market and its current regulatory regime.**

The FDA, as described above, largely forbears from asserting regulatory authority over PSAPs. But the distinction between a PSAP and a hearing aid (which is based on “intended use” rather than actual performance) is not clear, and there are many people with mild hearing impairment who can benefit from amplification by headphones and other devices, including PSAPs. PSAPs are improving and can be helpful to people with hearing loss, something that has been noted by several experts and organizations.<sup>59</sup> The regulatory distinction between PSAPs and hearing aids has led to an unproductive and escalating exchange between PSAP vendors and the FDA over the wording of product labels and advertisements for PSAPs. The sometimes tortured legalisms that result have the effect of confusing the consumer, who deserves access to accurate information.

The artificial distinction between PSAPs and hearing aids has also led to a natural experiment that shows what could be possible with a more open market: more innovation, at lower cost, is occurring in the less-regulated PSAP market. Companies ranging from established consumer electronics manufacturers to small startups are today developing innovative new PSAPs. “Hearables” can combine multiple functions (from listening to music to accessing calendar appointments), coordinate with other technologies (such as smartphones), and record health information and vital signs. Using technology similar, if not identical, to that in hearing aids, PSAPs can improve the clarity of sound, for example in situations with a lot of environmental noise. Some PSAPs are fashionably designed as “bling” in bright or metallic colors, a far cry from beige plastic hearing aids. At the same time, PSAPs are marketed at much lower price points than hearing aids. A *Consumer Reports* analysis found that behind-the-ear PSAP models range from \$25-\$500, while in-ear PSAP models may cost in the range of \$400.<sup>60</sup> In some cases, companies have marketed similar devices as a PSAP (under one model name) and as a hearing aid (under another model name and at a higher price).

Since the publication of the 1977 FDA rules, there have been several appeals to FDA (most notably in 1993 and 2000) by innovative technology developers and consumer groups to take actions that would open the market to more competition. No significant changes have been made.

On the contrary, the FDA’s recent draft regulatory guidance on PSAPs moves in the wrong direction. In 2013, FDA greatly extended its 2009 regulatory guidance by issuing draft guidance that, if finalized, would have the effect of forbidding PSAPs from making truthful claims about capabilities like providing assistance in “situations in which environmental noise might interfere with speech intelligibility” or “difficulty understanding conversations in crowded rooms.” The 2013 draft guidance defines the mention of such capabilities in advertising or labeling as evidence that the PSAP is actually a hearing aid. Under such a definition, innovative products addressing such scenarios could not be marketed *even to people with normal hearing, which is clearly allowed under the 2009 guidance*. The situations described in the 2013 draft guidance do not refer to medical conditions, but rather to issues related to normal human perception. PSAPs should be broadly defined as devices for discretionary consumer use that are intended to augment,



improve, or extend the sense of hearing in individuals. FDA should continue its current practice of forbearing from regulating PSAPs, except incidentally (as under the Radiation Control for Health and Safety Act of 1968).

PCAST finds the 2013 draft guidance on PSAPs is unsupportable by the facts and should be withdrawn. After presentations by a number of potential market innovators, PCAST assesses that the existence of this guidance *even in draft* has created concerns over the scope of FDA's regulatory authority and the future of the PSAP business model.

## VI. PCAST's Recommendations

Hearing loss is a substantial national problem. Cost is the largest barrier to hearing technology adoption by more people who need it, but technological shortfalls are also a significant barrier. Consumers are limited in their ability to shop for the best value, due to bundling and State restrictions on who is licensed to sell hearing aids.

The Federal Government has immediate opportunities to open up the hearing technology market to lower cost and increased innovation. The FDA is a critical actor as it tries to balance its important responsibility to protect the public from unsafe drugs and medical devices with the rapidly changing world of consumer electronics, such as wearables and biometrics, that are empowering consumers to find the solutions to their needs in the innovative technology market. The FTC also has an important role to play. We believe the following actions would greatly serve the public interest.

PCAST makes the following recommendations:

### Open up the market for innovative hearing technologies

**Recommendation 1.** FDA should designate as a distinct category ("basic" hearing aids) non-surgical, air-conduction hearing aids intended to address bilateral, gradual onset, mild-to-moderate age-related hearing loss and adopt distinct rules for such devices.

(a) FDA should approve this class of hearing aids for over-the-counter (OTC) sale, without the requirement for consultation with a credentialed dispenser. FDA should also approve for OTC sale, both in stores and on-line, tests appropriate to the self-fitting and adjustment of these OTC devices by the end user. Such hearing treatments and tests meet the FDA requirements for OTC products, which are that consumers should be able to self-diagnose, self-treat, and self-monitor the condition.

(b) FDA should exempt this class of hearing aids from QSR regulation in its present form and substitute compliance with standards for product quality and recordkeeping appropriate for the consumer-electronics industry, developed by an appropriate third-party organization and approved by FDA. Similar actions should be taken with respect to diagnostic hearing tests used to dispense and fit Class I hearing aids.

**Recommendation 2.** FDA should withdraw its draft guidance of November 7, 2013 on Personal Sound Amplification Products (PSAPs). PSAPs should be broadly defined as devices for discretionary consumer use that are intended to augment, improve, or extend the sense of hearing in individuals. PSAP manufacturers should continue to be able to make truthful claims about their use in normal settings. FDA should not require language in PSAP labeling or advertising that excludes their use by individuals with age-related hearing loss no worse than mild-to-moderate.

Increase opportunities for consumer choice

**Recommendation 3.** Analogously to its “Eyeglass Rule,” FTC should require audiologists and hearing-aid dispensers who perform standard diagnostic hearing tests and hearing aid fittings to provide the customer with a copy of their audiogram and the programmable audio profile for a hearing aid at no additional cost and in a form that can be used by other dispensers and by hearing-aid vendors. Also analogously, the availability of a hearing test and fitting must not be conditioned on any agreement to purchase goods or additional services from the provider of the test.

**Recommendation 4.** Similarly in effect to its “Contact Lens Rule,” FTC should define a process by which patients may authorize hearing-aid vendors (in-state or out-of-state) to obtain a copy of their hearing test results and programmable audio profile from any audiologist or hearing-aid dispenser who performs such a test, and it should require that the testers furnish such results at no additional cost. While FTC has the authority to issue new regulations of this sort, action can be accelerated and strengthened by legislative direction. We urge the Administration to work with Congress to initiate bipartisan legislation that would instruct FTC to issue a rule for hearing aids and PSAPs similar to the eyeglass and contact lens rules.

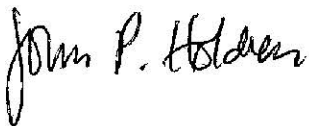
In summary, PCAST finds that the costs and risks of inaction with respect to untreated hearing loss in the aging U.S. population are large. PCAST finds that the unnecessarily high price of hearing aids for individuals and the conspicuously slow pace of innovation by their manufacturers compared with other consumer electronics are consequences of a concentrated and increasingly vertically integrated incumbent industry, operating in the context of longstanding Federal and State regulations that appear to discourage potential new entrants. PCAST recommends specific actions by FDA and FTC that would have the effect of opening up the market for innovative hearing technologies and increasing opportunities for consumer choice.

Sincerely,

The President’s Council of Advisors on Science and Technology

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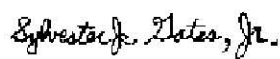
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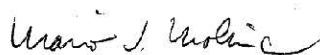
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## APPENDIX

Excerpt from FDA's *Guidance for Industry and FDA Staff: Regulatory Requirements for Hearing Aid Devices and Personal Sound Amplification Products* (2009) relevant to Class I air-conduction hearing aids and PSAPs.<sup>47</sup>

### **1. Introduction**

...Hearing aids and [personal sound amplification products] (PSAPs) both affect our ability to hear sound, but the products have different intended uses, and are therefore subject to different regulatory controls.

A hearing aid is a wearable sound-amplifying device that is intended to compensate for impaired hearing. A PSAP is a wearable electronic product that is not intended to compensate for impaired hearing, but rather is intended for non-hearing impaired consumers to amplify sounds in the environment for a number of reasons, such as for recreational activities. While some of the technology and function of hearing aids and PSAPs may be similar, the intended use of each article determines whether it is a device or an electronic product. The intended use may be established by labeling materials. Promotional materials that make claims or suggest the use of a PSAP for hearing impaired consumers, such as in the description of the types and severity of hearing loss, establish an intended use that causes the product to be a device and therefore subject to the regulatory requirements for a hearing aid device, as described in this guidance...

FDA's guidance documents, including this guidance, do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited...

### **2. Hearing Aids**

The regulations define a hearing aid as "any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing." (21 CFR 801.420)... All hearing aids must comply with specific requirements regarding patient and professional labeling identified in 21 CFR 801.420.... Additionally, all hearing aids must comply with the required conditions for sale, as stated in 21 CFR 801.421.... Finally, the hearing aid dispenser must retain records of all medical evaluation statements and waivers for a period of three years after dispensing of the hearing aid. These regulatory conditions for sale were established to encourage prospective users to receive proper medical evaluation and treatment for treatable causes of hearing loss...

### **3. Personal Sound Amplification Products (PSAPs)**

PSAPs are intended to amplify environmental sound for non-hearing impaired consumers. They are not intended to compensate for hearing impairment. Examples of situations in which PSAPs typically are used include hunting (listening for prey), bird watching, listening to lectures with a distant speaker, and listening to soft sounds that would be difficult for normal hearing individuals to hear (e.g., distant conversations, performances). Because PSAPs are not intended to diagnose, treat, cure or mitigate disease and do not alter the structure or function of the body, they are not devices as defined in the Food, Drug and Cosmetic Act. As such, there is no regulatory classification, product code, or definition for these products. Furthermore, there are no requirements for registration of manufacturers and listing of these products with FDA...



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July 26, 2016

TO: All Board Members, Speech-Language Pathology, Audiology and Hearing Aid  
Dispensers Board

RE: Kerry Denise Nau Proposed Decision, Case No. 1I 2015 60

Dear Board Members,

Enclosed is the Proposed Decision in the Kerry Denise Nau matter (1I 2015 60).

Anita reviewed this proposed decision and found some inconsistencies that should be brought to your attention:

1. The case number is actually 1I 2015 60, but is depicted as 1L 2015 60;
2. Under 'Factual Findings,' page 3, #1, it states, "On November 19, 2015, complainant, in her official capacity, filed and served the Accusation against respondent." Paul, filed the Accusation in his official capacity as Executive Officer of the Board; therefore it should be changed to "his"; and
3. The Proposed Decision includes the requirement to abstain from the use of alcohol, but does not include abstaining from other controlled substances.

The first two issues can be resolved by the Board adopting the proposed decision and making technical changes to the order under Government Code section 11517(c)(2)(C).

However, the third issue would not be considered a "minor change...that does not affect the factual or legal basis of the proposed decision" (Govt. Code section 11517(c)(2)(C)). Therefore, if the Board wanted to make the third change to the proposed decision, the Board would need to reject the proposed decision and decide the case without the ALJ. (11517(c)(2)(E)).

This is an optional term of probation per your Disciplinary Guidelines. It is optional term 19 and states:

19. ABSTAIN FROM CONTROLLED SUBSTANCES Respondent shall completely abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bonafide illness.

It is also a minimum penalty for violations of this nature, according to your Disciplinary Guidelines. My legal recommendation would be that this term be added to protect the public from a licensee who has not demonstrated sufficient rehabilitation to abstain from not only alcohol, but all controlled substances. It would also be consistent with your other decisions.



If you choose to vote to reject the proposed decision, at that time the Board may cure the two additional minor/technical changes that have been identified above.

I am available to field any questions you may have. I may be reached at (916) 574-8220 or via e-mail (Kelsey.pruden@dca.ca.gov). As always, please do not discuss amongst yourselves.

Thank you for your service and attention to this matter.

Regards,



Kelsey pruden, Attorney  
Department of Consumer Affairs, Legal Affairs Division  
(916) 574-8220

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BEFORE THE  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD AND  
HEARING AID DISPENSERS BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KERRY DENISE NAU

Speech Language Pathologist License  
No. SP 20285

Respondent.

Case No. 1L-2015-60

OAH No. 2015120718

**PROPOSED DECISION**

This matter was heard by Administrative Law Judge Erin R. Koch-Goodman, Office of Administrative Hearings, State of California, on May 31, and June 1, 2016, in Sacramento.

John S. Gatschet, Deputy Attorney General, represented Paul Sanchez (complainant), Executive Officer, Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board), Department of Consumer Affairs.

M. Bradley Wishek, Attorney at Law, represented Kerry Denise Nau (respondent), who was present.

On May 27, 2016, respondent filed a Motion to Strike Allegation from Accusation. At hearing, the parties agreed to file opposition and reply briefs after the presentation of evidence. On June 6, 2016, the undersigned issued an Order setting the briefing schedule as follows: opposition filed and served by close of business on June 13, 2016, and reply filed and served by close of business on June 20, 2016.

The Motion was marked as Exhibit 14. Complainant's Opposition brief was filed on June 8, 2016, and marked as Exhibit 15. Respondent's Reply brief was filed on June 20, 2016, and marked as Exhibit 16. The record was closed on June 20, 2016.



5. Respondent's Motion to Strike is DENIED. Complainant's request for additional attorney's fees is also DENIED.

### FACTUAL FINDINGS

1. On November 19, 2015, complainant, in her official capacity, filed and served the Accusation against respondent. On December 4, 2015, respondent filed a Notice of Defense and request for an administrative hearing.

2. On November 1, 2012, the Board issued speech-language pathologist license number SP 20285 to respondent. The license was in full force and effect at all times relevant and will expire on December 31, 2017, unless renewed.

#### *Conviction*

3. On August 25, 2015, respondent was convicted, in the Superior Court of California, County of San Luis Obispo, Case No. 15M-05209, on her plea of no contest, to violating Vehicle Code section 21352, subdivision (a) (driving under the influence of alcohol or drugs), a misdemeanor. The Court sentenced respondent to two days in jail and three years of probation, and ordered her to complete a First Offender Three-Month DUI program and pay fines and fees.

4. The circumstances of the underlying crime occurred on April 17, 2015, at approximately 11:50 p.m., while respondent drove her vehicle on El Camino Real in Arroyo Grande, California. Respondent was pulled over by the police after swerving into the bicycle lane several times, crossing the double yellow line with the driver's side tires several times, and speeding at 50 mph in a 35 mph zone. Officer Justin Dodson pulled respondent over and made contact with her. He smelled alcohol on her person and noticed red and watery eyes. Respondent admitted drinking three glasses of wine at her home between 8:00 p.m. and 9:00 p.m. Officer Dodson asked respondent to exit the vehicle and walk to the sidewalk; he noticed an unsteady gait. Officer Dodson administered Field Sobriety Tests (FSTs) to respondent. Respondent failed to adequately complete the FSTs. She refused a Preliminary Alcohol Screening (PAS) Test, and was arrested. Officer Dodson transported respondent to the hospital for a blood draw and then released respondent. The test results indicated respondent's Blood Alcohol Content (BAC) was .12 percent.

#### *Matter in Aggravation*

5. On or about June 14, 2006, respondent was convicted, in the Superior Court of the State of Arizona, County of Coconino, Case No. TR05-4705, on her plea of guilty, to violating Arizona Revised Statutes (A.R.S.) 28-1381 (driving under the influence/impaired to the slightest degree), a misdemeanor. The Court sentenced respondent to 10 days in jail, 9 days suspended pending completion of alcohol screening counseling, and ordered her to pay fines and fees.

11. Respondent completed a self-assessment and does not believe she is a risk to herself or others, and is confident she will never get another DUI. Respondent has complied with all requirements of her criminal sentencing. She no longer drinks alcohol and drives. Instead, if she drinks alcohol, she does not drive. She has a friend drive her or takes Uber. In addition, respondent does not believe that she needs to be monitored by the Board or have probationary conditions placed on her license. Respondent does not feel she has a problem with alcohol, so a no drinking condition would be "unfair" and "not necessary." Respondent does not believe that her DUI is related to her licensure. Respondent believes her relationship with subordinate employees would be compromised if she had to reveal to them that her license was on probation. Finally, her job duties do not include speech pathology. If the Board required her to practice speech pathology as a condition of probation, her job might be in jeopardy.

12. Respondent offered the opinion of Eugene Roeder, Ph.D., Licensed Psychologist, Clinical and Forensic Psychology, to support her position. Roeder was retained by respondent to complete a psychological evaluation report and testify at hearing. Roeder was asked to determine whether respondent was experiencing any diagnosable or treatable difficulties which would interfere with her ability to practice her profession.

Roeder evaluated respondent on April 18, 2016. He interviewed respondent and administered four psychodiagnostic tests, including the Minnesota Multiphasic Personality Inventory, the Million Clinical Multiaxial Inventory, Fourth Edition, the Shipley Institute of Living Scale, and the Substance Abuse Subtle Screening Inventory. Roeder formed an opinion regarding respondent based on his interview of her, her scores on the four psychodiagnostic tests, and the documents he reviewed, including court documents related to her convictions, a written statement by respondent, letters from Simon, and letters of support from friends and colleagues.

At hearing, Roeder reported respondent's test results were average, showing no mental disorders and no indications of alcohol dependency. Overall, Roeder found respondent not to have an alcohol problem or dependency and believes her to be safe to practice without supervision. He believes respondent's likelihood of a third DUI is low.

When questioned, Roeder explained why he believed respondent had received a second DUI conviction in 2015. Roeder said: respondent had minimal consequences following her 2005 conviction. She received no mandatory DUI program, Alcoholics Anonymous meetings, community service, or loss of her driver's license. As a result, respondent believed she could continue to drink and drive as long as she was careful. Roeder believes respondent will not reoffend because her 2015 conviction brought very serious consequences. She was saddled with court ordered penalties, including the completion of a mandatory DUI program, a restricted driver's license, and probation, potential professional consequences, and familial consequences, especially for her son, too. In addition, her 2015 conviction brought on physical symptomology, including panic attacks and anxiety, so much so she had to begin taking medication and seek counseling. Roeder opined that with the second DUI, respondent realized she could not tell if she had had too much to drink to legally



represent her in the licensing matter. Wishek's firm timely reported respondent's conviction to the Board. However, later, Wishek learned and reported to respondent that a Board licensee is also required to report an arrest within 30 days. Even with his disclosure, respondent maintained her legal relationship with Wishek.

Wishek argues he is to blame for respondent's failure to report her arrest and respondent should not be punished for his mistake. Wishek's argument is akin to relief sought under Code of Civil Procedure section 473, subdivision (b). However, 473 is inapplicable in administrative forums.

By its plain language, Code of Civil Procedure section 473(b) permits "the court" to grant relief, and thus does not apply to administrative appeals. Employer does not cite and we are not aware of any authority making Code of Civil Procedure section 473(b) applicable to our administrative proceedings.

*(In The Matter Of The Appeal Of MCM Construction, Inc. (2009) Ca.O.S.H.A. No. 09-R2D3-9230.)*

#### *Discussion*

16. California Code of Regulations, title 16, section 1399.156.33, sets forth the criteria to be considered in evaluating the rehabilitation of a licensee who has been convicted of a crime. The criteria include the nature and severity of the act or offenses; total criminal record; the time that has elapsed since the commission of the acts or offenses; whether the licensee has complied with any terms of probation or sanctions lawfully imposed on the person; evidence of expungement proceedings under Penal Code section 1203.4; and evidence of rehabilitation submitted by the licensee. (Cal. Code Regs., tit. 16, § 1399.156.33, subds. (a) - (f).)

17. Respondent has received two DUI convictions in 10 years: 2005 and 2015. Her last conviction occurred less than one year ago. She has completed the court ordered three month DUI program. However, she remains on probation until August 2018. Since persons under the direct supervision of correctional authorities are required to behave in an exemplary fashion, little weight is generally placed on the fact that the applicant did not commit additional crimes or engage in addictive behavior while on probation or parole. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

18. At hearing, respondent admitted her conduct and testified she was remorseful. She believes she made a mistake and she has learned from it. However, in 2012, respondent applied for licensure with the Board and made the same mea culpa. In her application, she revealed her 2005 DUI conviction and wrote, in part: "[t]his was tremendous learning experience for me and has not happened since. I have made a conscious effort to make sure that I never repeat this mistake." In 2015, she did. She now asks the Board to believe that a third DUI will not occur; she has no problem with alcohol; and she does not need to abstain

(c)(2) The use . . . of alcoholic beverages, to the extent or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely.

[¶] . . . [¶]

(c)(4) . . . The record of the conviction shall be conclusive evidence of unprofessional conduct.

2. California Code of Regulations, title 16, section 13399.156.1 states:

For the purposes of denial, suspension or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Act if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the function authorized by his or her license or registration in a manner consistent with the public health, safety, or welfare.

3. Respondent's 2015 DUI conviction evidences a present or potential unfitness to perform the functions authorized by her license in a manner consistent with the public health, safety, and welfare. "Driving under the influence 'reflect[s] a lack of sound professional and personal judgment,' threatens the safety of the public, and demonstrates both a disregard of the medical knowledge of the effects of alcohol and the legal prohibitions against drinking and driving." *Sulla v. Board of Registered Nursing* (2012) 205 Cal.App.4th 1195, 1203. Respondent's conviction is conclusive evidence of unprofessional conduct and is substantially related to her professional qualifications.

4. Cause exists to discipline respondent's license, pursuant to sections 2533, subdivision (a), in that respondent has been convicted of crime that is substantially related to the qualifications, functions, and duties of a speech language pathologist, based on Factual Finding 3.

5. Cause exists to discipline respondent's license, pursuant to section 2533, subdivision (c)(2), in that respondent used alcoholic beverages to an extent and in a manner as to be dangerous to herself, any other person, or to the public, based on Factual Findings 4.

6. Cause exists to discipline respondent's license, pursuant to California Code of Regulations, title 16, section 1399.156, subdivision (h)(2), in that respondent failed to report her arrest to the Board within 30 days, based on Factual Finding 15.



### 3. CHANGE OF ADDRESS NOTIFICATION

Respondent shall, within five (5) days of a change of residence or mailing address, notify the Board in writing of the new address.

### 4. OUT-OF-STATE RESIDENCY

Respondent shall notify the Board immediately in writing if she leaves California to reside or practice in another state.

Respondent shall notify the Board immediately upon return to California.

The period of probation shall be tolled during the time respondent is residing or practicing outside California.

### 5. SUBMIT QUARTERLY WRITTEN DECLARATIONS

Respondent shall submit to the Board quarterly written declarations and verification of actions signed under penalty of perjury. These declarations shall certify and document compliance with all the conditions of probation.

### 6. NOTIFY EMPLOYER OF PROBATION TERMS AND RESTRICTIONS

When currently employed or applying for employment as a speech-language pathologist, audiologist or speech-language pathology assistant, respondent shall notify her employer of the probationary status of respondent's license. This notification to respondent's current employer shall occur no later than the effective date of the Decision placing respondent on probation. Respondent shall notify any prospective employer of her probationary status with the Board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the Board's Decision placing respondent on probation.

Respondent shall cause each employer to submit quarterly written declarations to the Board. These declarations shall include a performance evaluation.

Respondent shall notify the Board, in writing, of any change in her employment status, within ten (10) days of such change.

### 7. INTERVIEWS WITH BOARD REPRESENTATIVES

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice. An initial probation visit will be required within sixty (60) days of the effective date of the Decision. The purpose of this initial interview is to introduce Respondent to the Board's representatives and to familiarize Respondent with specific probation conditions and requirements. Additional meetings may be scheduled as needed.

14. ABSTAIN FROM USE OF ALCOHOL

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

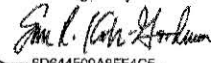
15. SUBMIT BIOLOGICAL FLUID SAMPLES

Respondent shall immediately submit to biological fluid testing paid for by respondent, at the request of the Board or designee. Positive test results will be immediately reported to the Board.

16. RECOVERY OF COSTS

Respondent shall pay \$2,492.25 in costs in a manner directed by the Board.

DATED: July 18, 2016

DocuSigned by:  
  
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ERIN R. KOCH-GOODMAN  
Administrative Law Judge  
Office of Administrative Hearings





By

*Quita Joseph*

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BEFORE THE  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
AND HEARING AID DISPENSERS BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 11 2015 60

**KERRY DENISE NAU**

**1051 Meadow Way  
Arroyo Grande, CA 93420**

**ACCUSATION**

**Speech-Language Pathologist License No.  
SP 20285**

Respondent.

Complainant alleges:

PARTIES

1. Paul Sanchez (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board), Department of Consumer Affairs.

2. On or about November 1, 2012, the Board issued Speech-Language Pathologist License Number SP 20285 to Kerry Denise Nau (Respondent). The Speech-Language Pathologist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2017, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2530 of the Code states: "This act may be cited as the 'Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act.'"

5. Section 2530.1 of the Code states:

"The Legislature finds and declares that the practice of speech-language pathology and audiology and hearing aid dispensing in California affects the public health, safety, and welfare and there is a necessity for those professions to be subject to regulation and control."

6. Section 2531.5 of the Code states: "The board shall issue, suspend, and revoke licenses and approvals to practice speech-language pathology and audiology as authorized by this chapter."

7. Section 2533 of the Code states, in relevant part:

"The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

"(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof."

"....

"(2) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely.

"...

"The record of the conviction shall be conclusive evidence of unprofessional conduct."

///

1           8.       Section 2533.1 of the Code states:

2           "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
3 charge substantially related to the qualifications, functions, and duties of a speech-language  
4 pathologist or audiologist is deemed to be a conviction within the meaning of this article. The  
5 board may order a licensee be disciplined or denied a license as provided in Section 2533 when  
6 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or  
7 when an order granting probation is made suspending the imposition of sentence irrespective of a  
8 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or  
9 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
10 dismissing the accusation, information or indictment."

11                               COST RECOVERY

12           9.       Section 125.3 of the Code provides, in pertinent part:

13           "(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
14 proceeding before any board within the department or before the Osteopathic Medical Board, the  
15 board may request the administrative law judge to direct a licensee found to have committed a  
16 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
17 investigation and enforcement of the case.

18           "(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs  
19 are not available, signed by the entity bringing the proceeding or its designated representative  
20 shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The  
21 costs shall include the amount of investigative and enforcement costs up to the date of the  
22 hearing, including, but not limited to, charges imposed by the Attorney General.

23           "(d) The administrative law judge shall make a proposed finding of the amount of  
24 reasonable costs of investigation and prosecution of the case when requested pursuant to  
25 subdivision (a). The finding of the administrative law judge with regard to costs shall not be  
26 reviewable by the board to increase the cost award. The board may reduce or eliminate the cost  
27 award, or remand to the administrative law judge where the proposed decision fails to make a  
28 finding on costs requested pursuant to subdivision (a).



1       "(e) Where an order for recovery of costs is made and timely payment is not made as  
2 directed in the board's decision, the board may enforce the order for repayment in any appropriate  
3 court. This right of enforcement shall be in addition to any other rights the board may have as to  
4 any licensee to pay costs.

5       "(f) In any action for recovery of costs, proof of the board's decision shall be conclusive  
6 proof of the validity of the order of payment and the terms for payment.

7       "(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the  
8 license of any licensee who has failed to pay all of the costs ordered under this section.

9       "(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or  
10 reinstate for a maximum of one year the license of any licensee who demonstrates financial  
11 hardship and who enters into a formal agreement with the board to reimburse the board within  
12 that one-year period for the unpaid costs.

13       "(h) All costs recovered under this section shall be considered a reimbursement for costs  
14 incurred and shall be deposited in the fund of the board recovering the costs to be available upon  
15 appropriation by the Legislature.

16       "(i) Nothing in this section shall preclude a board from including the recovery of the costs  
17 of investigation and enforcement of a case in any stipulated settlement:

18                               CODE OF REGULATIONS

19       10. California Code of Regulations, title 16, section 1399.156.1, states, in pertinent part:

20       "For the purposes of denial, suspension or revocation of a license or registration pursuant to  
21 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be  
22 substantially related to the qualifications, functions or duties of a person holding a license under  
23 the Act if to a substantial degree it evidences present or potential unfitness of a person holding a  
24 license to perform the functions authorized by his or her license or registration in a manner  
25 consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be  
26 limited to, those involving the following:

27       "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
28 violation of, or conspiring to violate any provision or term of the Act.

1 11. California Code of Regulations, title 16, section 1399.156(h)(2), states, in pertinent  
2 part:

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

5 ...

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

7 ...

8 (2) The arrest of the licensee."

9 FIRST CAUSE FOR DISCIPLINE

10 (Substantially-Related Conviction)

11 12. Respondent is subject to disciplinary action under Code section 2533(a) [conviction  
12 of a crime]; and/or Code section 2533(c)(2) [use of alcoholic beverages in a manner dangerous to  
13 self or others] in that in 2015, she was convicted of a misdemeanor violation of driving under the  
14 influence of alcohol. The circumstances are as follows:

15 13. On or about April 17, 2015 at approximately 11:55 p.m., Arroyo Grande Police  
16 Officer Justin Dodson was on patrol in a marked Police Department vehicle. Officer Dodson  
17 observed an adult female (later identified as Respondent) driving a vehicle in front of him. He  
18 observed Respondent swerve into the bicycle lane several times. He also observed the vehicle's  
19 driver side tires travel over the center solid double yellow line several times. Using a  
20 speedometer, he observed that Respondent was traveling 50 miles per hour in a 35 mile per hour  
21 zone. He then observed Respondent drive across the double yellow lines and into the westbound  
22 lanes for approximately 60 feet before traveling back into her lane. When Respondent drove on  
23 the wrong side of the roadway, he initiated his emergency lights. Respondent continued driving  
24 without yielding to the curb. He then used the patrol vehicle's Public Address system and  
25 requested that Respondent pull to the right. Respondent made a right turn at the intersection and  
26 continued driving for awhile before coming to a stop.

27 14. Officer Dodson stood at the driver side door of Respondent's vehicle and while  
28 speaking to her, he smelled a strong odor of alcohol on her person. He observed that

1 Respondent's eyes were red and watery. He noticed that Respondent was not able to form  
2 complete sentences several times; she stopped mid-sentence and stared. Based on her objective  
3 symptoms of alcohol intoxication, Officer Dodson asked Respondent to exit the vehicle. As she  
4 walked to the sidewalk, he noticed that her gait was unsteady.

5 15. Respondent admitted that she drank three glasses of wine at her house with dinner  
6 from 8:00 p.m. until 9:00 p.m. Based on her statement, the officer's observations of her driving  
7 and her objective symptoms of alcohol intoxication, Officer Dodson requested that Respondent  
8 perform a series of Field Sobriety Tests (FSTs).

9 16. Respondent was unable to perform the FSTs in a satisfactory manner. She refused to  
10 submit to a preliminary alcohol screening test. Based on the officer's observations of  
11 Respondent's driving, her admission to drinking three glasses of wine earlier in the evening, and  
12 her performance on the FSTs, Officer Dodson determined that Respondent was driving under the  
13 influence of alcohol. He arrested her for violating Vehicle Code (VC) section 23152(a) [driving  
14 under the influence of alcohol.] Respondent chose to provide a blood sample, and Officer  
15 Dodson transported her to the Arroyo Grande Hospital Emergency room for the blood draw.

16 17. On or about June 2, 2015, a criminal complaint titled *People of the State of California*  
17 *vs. Kerry Denise Nau* was filed in San Luis Obispo County Superior Court Case No. 15M-05209.  
18 Count 1 of the Complaint alleged a misdemeanor violation of VC section 23152(a) [driving  
19 under the influence of alcohol and/or drugs]; Count 2 alleged a misdemeanor violation of VC  
20 section 23152(b) [driving with a 0.08% or more BAC].

21 18. On or about August 25, 2015, Respondent was convicted upon her plea of no contest  
22 to a violation of VC section 23152(a) [driving under the influence of alcohol]. She was found not  
23 guilty of Count 2 by Court Trial. She was sentenced to three years bench-court supervised  
24 probation with terms and conditions including, but not limited to: required attendance and  
25 completion of a three month driving under the influence program; two days jail time with credit  
26 for two days served; and she was ordered to pay fines and fees.

27 ///

28 ///



1 SECOND CAUSE FOR DISCIPLINE

2 (Failure to Report Arrest)

3 19. Respondent is subject to disciplinary action in that she was arrested on April 17, 2015  
4 for violating VC section 23152(a) [driving under the influence of alcohol] but failed to report the  
5 arrest to the Board within thirty days as required by California Code of Regulation  
6 1399.156(h)(2).

7 MATTER IN AGGRAVATION


8 20. On or about June 14, 2006, in the state of Arizona, Respondent was convicted upon  
9 her plea of guilty to a misdemeanor violation of A.R.S. 28-1381, driving under the influence  
10 impaired to the slightest degree.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Speech-Language Pathology and Audiology and Hearing Aid  
14 Dispensers Board issue a decision:

- 15 1. Revoking or suspending Speech-Language Pathologist License Number SP 20285,  
16 issued to Kerry Denise Nau;
- 17 2. Ordering Kerry Denise Nau to pay the Speech-Language Pathology and Audiology  
18 and Hearing Aid Dispensers Board the reasonable costs of the investigation and enforcement of  
19 this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: November 19, 2015

  
PAUL SANCHEZ  
Executive Officer  
Speech-Language Pathology and Audiology and  
Hearing Aid Dispensers Board  
Department of Consumer Affairs  
State of California  
Complainant

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## **BOARD MEETING MINUTES – Draft**

May 12-13, 2016

2005 Evergreen Street, “Hearing Room”

Sacramento, CA 95815

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

### **Full Board Meeting**

#### **1. Call to Order / Roll Call / Establishment of Quorum**

##### **Board Members Present**

Alison Grimes, Board Chair  
Patti Solomon-Rice, Vice Chair  
Marcia Raggio, Board Member  
Dee Parker, Board Member  
Amnon Shalev, Board Member  
Debbie Snow, Public Board Member

##### **Board Members Absent**

Rodney Diaz, MD, Public Board Member  
Jaime Lee, Public Board Member  
Deane Manning, Board Member

##### **Staff Present**

Paul Sanchez, Executive Officer  
Breanne Humphreys, Program Manager  
Kelsey Pruden, Legal Counsel  
Anita Joseph, Enforcement Coordinator  
Karen Robison, Analyst  
Bryce Penney, DCA Web Cast

##### **Guests Present**

Becky Bingea, California Academy of Audiology (CAA)  
Tara Welch, DCA Legal  
Amy White, CAA

#### **2. Public Comment for Items not on the Agenda**

*There were no comments from Public/Outside Agencies/Associations.*



### 3. Board Election of Officers

The Board held its annual election of officers whose one year term will begin on July 1, 2016.

Mr. Shalev nominated Ms. Grimes for the position of Chair

- **The Board voted on the nomination of Ms. Grimes to the position of Chair. The motion carried 6-0**

Ms. Parker nominated Ms. Solomon-Rice for the position of Vice-chair.

- **The Board voted on the nomination of Ms. Solomon-Rice to the position of Vice-chair. The motion carried 6-0**

### 4. Review and Approval of the February 4-5, 2016 Board Meeting Minutes

- **Approve the February 4-5, 2016 Meeting Minutes as amended. The motion carried 5-0 with Mr. Shalev abstaining**

### 5. Board Regulations Process Overview

Mr. Sanchez informed the Board that there is a large workload in the area of regulations as the Board has been working on promulgating many regulations over the past eighteen months. The Board does not have the resources to delegate a staff member to work on regulations full time and has redirected enforcement staff to handle this work load. The Board is currently working on a Budget Change Proposal (BCP) to request additional staff specifically to handle regulations. He noted that Ms. Pruden has been a great help with the coordination of the rule making files and clarification with technical and legal issues. The regulation process was explained by Mr. Sanchez and Ms. Pruden to help Board Members better understand the timeline and processes that must be followed with each rule making file.. Questions that were answered included the time it takes a regulation to be approved from beginning to end, the consequence of not meeting the final filing deadline with the Office of Administrative Law (OAL), and raising fees to adequately staff the Board.

### 6. Discussion and Possible Action on Prioritization of Board's Rulemaking Files

The Board reviewed the pending rulemaking files and discussed their order of importance. The Board was informed that a couple of rulemaking files listed in this table will become obsolete if the Board approves proposed language in agenda item 7. The Board was informed that many of the regulations on the list may look familiar because they had been previously approved by the Board but were delayed due to staffing issues.

### 7. Proposed Regulations – Discussion and Possible Action

- a. Title 16, CCR, Section 1399.140 - Hearing Aid Dispenser Continuing Education

The Board was apprised that this regulation package has been disapproved by OAL due to technical issues and is coming before the Board to address the issues that resulted in the disapproval. The Board

addressed the comments received and approved staff recommended responses. The Board listened as Ms. Pruden outline an option, not listed in the memorandum, which modifies the proposed text by extending out the effective date. The process of making the changes and extending the date provides the Board with an opportunity to consolidate rule making files and include the Board-approved language to increase the amount of self-study hours to fifty (50) percent of the required amount of CE which is consistent with the Board's other licensing categories. The Board discussed each of the modifications and additional edits to the text.

**M/S/C Solomon-Rice/Shalev**

- **Approve the staff recommended responses to Slater comments. The motion carried 6-0**

**M/S/C Grimes/Solomon-Rice**

- **Approve the staff recommended responses to McCoy comments. The motion carried 6-0**

**M/S/C Shalev/Parker**

- **Move to approve the modified text with edits for a 15 day public comment period; delegate to the EO the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period and make any technical and non-substantive changes that may be required to complete the rulemaking file. The motion carried 6-0**

**b. Title 16, CCR, Section 1399.127 - Hearing Aid Dispenser Advertising**

The Board was informed that proposed text to the hearing aid dispenser advertising language was approved by the Board in July 2013. The regulation is being brought back before the Board to revisit the language and approve amended text which brings clarity to the language and addresses issues faced by enforcement staff. The Board reviewed the staff-proposed new text and discussed additional edits to the language.

**M/S/C Grimes/Raggio**

- **Move to approve the proposed text for a 45 day public comment period; delegate to the EO the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period and make any technical and non-substantive changes that may be required to complete the rulemaking file. The motion was withdrawn**

**M/S/C Grimes/Shalev**

- **Move to approve the proposed text as amended for a 45 day public comment period; delegate to the EO the authority to adopt the proposed regulatory changes if there are**



**no adverse comments received during the public comment period and make any technical and non-substantive changes that may be required to complete the rulemaking file. The motion carried 6-0**

c. Title 16, CCR, Section 1399.170 - Speech-Language Pathology Assistants

Modified language is being brought before the Board to approve which, among other minor changes to the text, incorporates the Supervised Clinical Experience Clock Hours which were approved during the February 4-5, 2016 Board meeting.

**M/S/C Solomon-Rice/Parker**

- **Move to approve the proposed text for a 15 day public comment period; delegate to the EO the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period and make any technical and non-substantive changes that may be required to complete the rulemaking file. The motion carried 6-0**

8. Executive Officer's Report  
a. Administration Update

The Board will be adding one permanent staff position by July 1, 2016. This position was attained thought the budget change proposal process and will work in licensing to further improve processing times.

b. Budget Report

The Board is scheduled to spend most of its budget this fiscal year. Enforcement and conducting the practical examination are the two areas that have seen an increase in spending.

c. Licensing Report

Licensing is in a better position at this point in time than in previous years. We are seeing the results or process improvements and hard work. Processing timeframes are lower thanks to a team effort by our licensing team.

d. Practical Examination Report

The Board is testing more frequently than in prior years and holding workshops in partnership with the Office of Professional Examination Services to make improvements to the practical examination.



e. Enforcement Report

The Board has held meetings with the Division of Investigation (DOI) which has helped the understanding of DOI processes and workload issues. DOI processing time statistics will continue to decrease as older cases are completed. It is noted that the Board has a large amount of cases pending with the Office of the Attorney General for a Board of our size.

f. Strategic Plan Update

The published Strategic Plan was given to the Board members. Mr. Sanchez informed the Board that staff is working with the SOLID team to create an action plan to complete the goals and objectives within the four (4) year timeframe. The action plan should be available by the August Board meeting.

In addition, Mr. Sanchez has met with Board stakeholders over the past few months to discuss topics that are important to them.

**Closed Session**

9. Pursuant to Government Code Section 11126 (c) (3), the Board will Meet in Closed Session to Deliberate on Disciplinary Matters

1C 2012 85

Stipulated Settlement - Adopted

1C 2012 98

Stipulated Settlement - Adopted

**Return to Open Session**

10. The Board recessed at 5 p.m.

**May 13, 2016**

Alison Grimes, Board Chair, called the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board meeting to order at 9:05 a.m. Ms. Grimes called roll; six members of the Board were present and thus a quorum was established.

1. Call to Order / Roll Call / Establishment of Quorum

**Board Members Present**

Alison Grimes, Board Chair

Patti Solomon-Rice, Vice Chair

Marcia Raggio, Board Member

Dee Parker, Board Member

Amnon Shalev, Board Member

Debbie Snow, Public Board Member

**Board Members Absent**

Rodney Diaz, MD, Public Board Member

Jaime Lee, Public Board Member

Deane Manning, Board Member

**Staff Present**

Paul Sanchez, Executive Officer

Breanne Humphreys, Program Manager

Kelsey Pruden, Legal Counsel

Anita Joseph, Enforcement Coordinator

Karen Robison, Enforcement Analyst

Bryce Penney, DCA Web Cast

**Guests Present**

Becky Binge, CAA

David Chriss, Chief, Division of Investigations (DOI)  
Rex Cowart, Northern Commander, DOI

Guests Present (cont'd)

Linda Pippert, California Speech-Language Hearing Association (CSHA)  
Dennis Van Vliet, AuD, Starkey Hearing Technologies  
Tara Welch, DCA Legal  
Amy White, CAA  
Stephanie Whitley, Supervising Investigator, DOI

2. Public Comments for Items not on the Agenda

*There were no comments from Public/Outside Agencies/Associations.*

3. Presentation about Division of Investigation

The Division of Investigation (DOI) gave a presentation to the Board in which they explained their role in the Board's Enforcement Program. Mr. Chriss informed the Board that DOI was created in 1961 to provide investigative services for the various entities within the Department of Consumer Affairs (DCA). He spoke about the process of how complaints are handled and the types of cases they handle. Mr. Cowart and Ms. Whitley informed the Board that DOI has its own webpage and reported that licensees and the public can contact DOI directly if they have concerns. Ms. Whitley explained how her unit triages complaints and forwards them to the appropriate field office to investigate. DOI answered questions from Board members to help them gain a better understanding of the role DOI plays in the Board's Enforcement program.

4. Discussion and Possible Action to Seek a Legislative Change to Eliminate Speech-Language Pathology Aide Designation

Ms. Solomon-Rice spoke about the differences between the Speech-Language Pathology Aide (Aide) and the Speech-Language Pathology Assistant (SLPA). The Board discussed various issues including Aides not requiring special training, the impact on the accessibility to services, consumer protection, how Aides are used to perform duties out of their scope of expertise. There was discussion on how the Aides designation may be encouraging unlicensed practice in the field of speech-language pathology. The Board was provided information that Aides have been working in school districts as instructional assistants assigned to provide speech therapy activities to children for many years and that SLPA job tasks need to be disseminated to school districts so they are not working outside their scope of practice.

Mr. Sanchez informed the Board that there are approximately thirty (30) registered Aides who submit a one (1) time application fee of \$10 and do not renew their registrations. Ms. Pruden noted that Aides could have been eliminated when SLPAs were added in 1998. She opined that the legislature may have thought there was still a need for Aides at the time. Mr. Sanchez remarked that the needs in the field have likely changed over the years and that eliminating Aides will require statutory changes. The elimination of the Aide designation is an issue that can be further discussed as an issue for legislation during Sunset Review.

**M/S/C Solomon-Rice/Grimes**



- **Direct staff to seek statutory change to eliminate the Speech-Language Pathology Aide designation during Sunset Review. The motion carried 6-0**

5. Discussion and Possible Action Regarding Foreign Educated SLP Applicants and English Proficiency Test Requirements

Ms. Solomon-Rice reported on English Proficiency for Foreign Educated applicants. She supplied a matrix which provided application and English proficiency requirements from different healing arts Boards. The Board and public discussed implementing English proficiency, Physical Therapy Board cut off score, and how the speaking portion of the examination works on an online test. Ms. Pruden stated the Board did not have the authority to require English Proficiency at this time and that she needed to research Federal laws to see if any will prohibit this requirement.

6. Audiology Practice Committee Report – Discussion and Possible Action

Ms. Grimes presented the Audiology Practice Committee report. She noted that there has been communication with California Children Services (CCS) and the next phone conference may be in June. Ms. Grimes reported that the AuD licensing requirements are being clarified; specifically supervised clinical experience and require professional experience. In addition, the Committee was informed that changes at the national and state levels are being forecasted that might impact audiology training programs.

**M/S/C Raggio/Parker**

- **Motion to accept the report. The motion carried 6-0**

7. Legislation Update, Review, and Possible Action

a. AB 1707 (Linder) Public records: response to request

The Board did not discuss this bill.

b. AB 1950 (Maienschein) Hearing aids: audio switch

Ms. Raggio spoke about this bill. Discussion ensued and it was mentioned that this bill would be problematic as written due to advancing and obsolete technology and the Board being required to develop and update a disclosure brochure. The Board discussed options such as writing a letter of support about educating consumers about available technologies that may help their communication problems, not supporting the bill as currently written, and to take a wait and see position.

**M/S/C Raggio/Solomon-Rice**

- **Motion for Ms. Raggio and Ms. Grimes write a letter opposing the current language of the bill unless amended. The letter should also express the Board's support for the concept of the bill. The motion carried 6-0**

- c. AB 2317 (Mullin) California State University: Doctor of Audiology degrees

The Board discussed this bill and about sending a letter of support of the current language of the bill.

**M/S/C Raggio/Parker**

- **Motion to write a letter supporting the current language of the bill. The motion carried 6-0**

- d. AB 2606 (Grove) Crimes against children, elders, dependent adults, and persons with disabilities

The Board did not take a position on this bill.

- e. AB 2701 (Jones) Department of Consumer Affairs: boards: training requirements

The Board did not discuss this bill.

- f. AB 2859 (Low) Professions and vocations: retired category: licenses

The Board decided to watch this bill.

- g. SB 1033 (Hill) Medical Board: disclosure of probationary status

The Board did not take a position on this bill.

- h. SB 1155 (Morrell) Professions and vocations: licenses: military service

The Board did not take a position on this bill.

- i. SB1195 (Hill) Professions and vocations: board actions: competitive impact

Ms. Pruden explained this bill came about from the North Carolina Dental Board antitrust lawsuit, how it affects the Board as a whole and how it affects the rulemaking packages. The Board decided to watch this bill.

**8. Future Agenda Items and Future Board Meeting Dates**

Items identified as future agenda items include Sunset Review, hearing aids that are locked from being serviced by a company other than the original manufacturer, English proficiency requirements, SLPA supervision audits, and President's Council of Advisors on Science and Technology (PCAST).

- a. August 11-12, 2016 – Los Angeles
- b. November 3-4, 2016 – Sacramento
- c. February 9-10, 2017 – TBD

The Board decided to hold the February 2017 Board meeting in San Diego

Speech Language Pathology and Audiology  
and Hearing Aid Dispensers Board Meeting  
May 12-13, 2016

d. May 11-12, 2017 – TBD

The Board decided to hold the May 2017 Board meeting in the Bay Area.

9. The Board adjourned at 3 p.m.





## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Workload and Staffing Analysis Report</b>

### BACKGROUND

The Board has existed since January 2010 in its current configuration. Prior to that date, the Hearing Aid Dispensers (HAD) Bureau and the Speech-Language Pathology and Audiology (SLP/AU) Board were separate organizations. The merging of the two organizations resulted in the Board providing regulatory oversight and to ten license types and the complexities of working with three professions.

At the time of the merger, staff from both entities were physically brought together but kept many of their separate processes and procedures. Compounding the issues caused by different processes and procedures was staff turnover within the first few years and the departure of the Executive Officer in 2013. Several retirements from senior staff from both the former HAD Bureau and the SLP/AU Board occurred in 2013 and 2014. As the new Executive Officer, hired in 2014, I thought it was imperative to formally assess the Board's staffing and workload levels, align processes and procedures used by HAD and SLP/AU, and identify process improvements to best serve the public while meeting the Board's mission. CPS HR was hired to address these concerns through an independent analysis of the work environment. The scope of the study included:

- Documenting the existing workload of Board positions by identifying major tasks and the time needed to complete those tasks
- Identifying any over and/or under staffing for existing workload
- Documenting any work not getting done due to insufficient staffing or enhancements needed to meet future needs
- Comparing Board staffing levels and performance measures to similar DCA small Boards

### **ACTION REQUESTED**

The CPS-HR Workload and Staffing Analysis Report which was completed in June of 2016 is provided for your information. The study will work as a tool for Board Management with assessing its current and future staffing needs.

June 28, 2016



Speech-Language Pathology and  
Audiology and Hearing Aid Dispensers Board

## Workload and Staffing Analysis Final Report

SUBMITTED BY:

Judy Capaul

*Project Manager*

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## **CPS HR PROJECT TEAM**

Judy Capaul, MS, SPHR - Project Manager

Richard Mallory, MM, PMP – Senior Personnel Management Consultant

Paula North, MA – Personnel Management Consultant

Eliza De La Cruz, BA – Administrative Technician

## **ABOUT CPS HR CONSULTING**

CPS HR Consulting is a Sacramento-based non-profit corporation, established as a California joint powers authority in 1985. Headquartered in Sacramento, CPS HR also has offices in Maryland and Texas. It is governed by a Board of Directors representing government agencies throughout the United States. With over 280 team members, CPS HR serves more than 1,200 public and nonprofit clients throughout the United States and Canada.

CPS HR helps its clients across a range of issues including classification and pay, organizational reviews, program review, workforce and succession planning, job analysis, testing, EEO and related investigations, and policy development.

## **ACKNOWLEDGMENT**

CPS HR wishes to thank all staff at the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board for their invaluable contributions and time.

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## Executive Summary

As part of the Department of Consumer Affairs, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) protects the health and welfare of Californians by ensuring the qualifications and competency of providers of speech-language pathology, audiology and hearing aid dispensing services.

At the beginning of this project in June 2015, the Board had 8.6 authorized positions in the following program/operational units:

- Licensing Program
- Enforcement Program
- Administration Unit

### **Study Scope and Goals**

The Board has existed since January 2010 in its current configuration. Prior to that date, the Hearing Aid Dispensers Bureau and the Speech-Language Pathology and Audiology Board were separate organizations. With the merger of the three professions into one regulatory board, the Board now regulates ten license types. At the time of the merger, staff from both entities were physically brought together but kept many of their separate processes and procedures. A new Executive Officer hired in 2014 requested an independent analysis by CPSHR Consulting of Board workload, staffing levels and efficiencies needed to best serve the public. The scope of the study included:

- Documentation of the existing workload of Board positions by identification of major tasks and the time needed to complete those tasks
- Identification of over and/or under staffing for existing workload
- Documentation of any work not getting done due to insufficient staffing or enhancements needed to meet future needs
- Comparison of Board staffing levels and performance measures to comparable DCA small Boards



### Opportunities for Improvement

As a result of this study, CPS HR identified the following opportunities for improvement.

Summary of Major Workload Challenges and Recommendations
<b>Administration</b>
<ul style="list-style-type: none"><li>a) Office Technician workload is understaffed by at least 2.6 PY. Add to budget to increase staffing.</li><li>b) Track OT workload regularly to ensure levels of support remain adequate in the future.</li><li>c) Ensure OT tasks have backup.</li><li>d) Review OT processes to ensure consistency in processes for similar work performed for HAD and SLP/AU and potential process efficiencies.</li><li>e) Assess solutions to add capacity for regulatory, legislative and budget analysis as this work is currently done by the Executive Officer, enforcement staff or not getting done.</li></ul>
<b>Licensing/ Examination</b>
<ul style="list-style-type: none"><li>a) Licensing workload is understaffed 0.87 PY when including the work not being performed to support the Continuing Professional Development Program. Add to budget to increase staffing.</li><li>b) Identify cross training opportunities in licensing to ensure adequate back up.</li><li>c) Assess viability of a regulation change to perform the review and approval of HAD continuing education courses every two years to align with SLP/AU continuing education provider renewals.</li><li>d) Review application processing and examination processes for potential efficiencies.</li></ul>
<b>Enforcement</b>
<ul style="list-style-type: none"><li>a) Use temporary help to clear backlog in enforcement.</li><li>b) Once backlog is cleared, reassess workload and distribute assignments accordingly.</li><li>c) Review complaint investigation process to identify obstacles and improve efficiency.</li></ul>

## Background and Purpose

As a part of the Department of Consumer Affairs, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (SLPAHADB or Board) protects the health and welfare of Californians by ensuring the qualifications and competency of providers of speech-language pathology, audiology and hearing aid dispensing services. The Board has existed since January 2010 in its current configuration. Prior to that date, the Hearing Aid Dispensers (HAD) Bureau and the Speech-Language Pathology and Audiology (SLP/AU) Board were separate organizations. The merging of the two organizations resulted in the joining of three professions providing regulation to ten license types.

At the time of the merger, staff from both entities were physically brought together but kept many of their separate processes and procedures. Compounding the variability caused by different processes and procedures was staff turnover within the first few years. Several retirements from both the former HAD Bureau and the SLP/AU Board occurred in 2013 and 2014 and a new Executive Officer was hired in 2014. The Executive Officer identified the need to assess staffing and workload levels, align processes and procedures used by HAD and SLP/AU, and identify process improvements to best serve the public while meeting the Board's mission. CPS HR was hired to address these concerns through an independent analysis of the work environment. The scope of the study included:

- Documenting the existing workload of Board positions by identifying major tasks and the time needed to complete those tasks
- Identifying any over and/or under staffing for existing workload
- Documenting any work not getting done due to insufficient staffing or enhancements needed to meet future needs
- Comparing Board staffing levels and performance measures to similar DCA small Boards

The following report documents the study methodology, findings and recommendations.

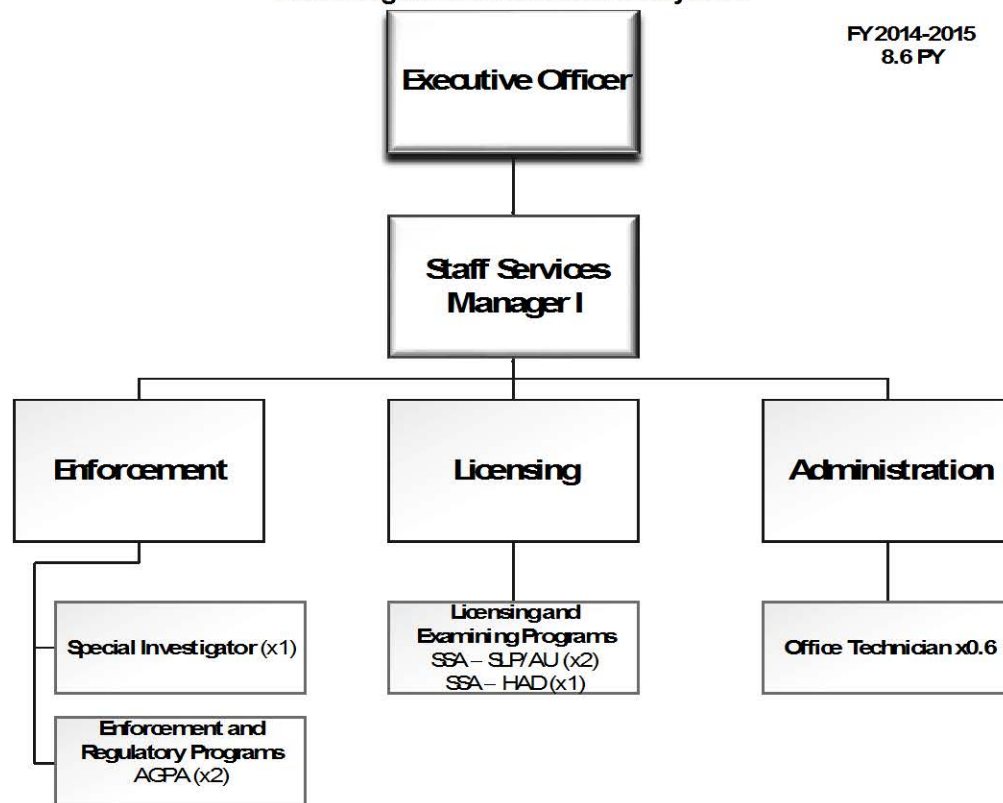


## Assessment of Existing Workload

### Existing Organizational Structure

SLPAHADB organizes its work into three units: 1) Enforcement, 2) Licensing and Examination, and 3) Administration. The organization is staffed with a Staff Services Manager I (SSM I) reporting directly to the Executive Officer and serving as the operations manager. The remaining staff, reporting directly to the SSM I, consists of two Associate Governmental Program Analysts (AGPA) and one Special Investigator in the Enforcement unit, three Staff Services Analysts (SSA) in the Licensing and Examination unit, and one Office Technician (OT)<sup>1</sup> providing support to all three units. The following organizational chart depicts the organizational structure for the budgeted positions as of May 2015. However, in recent years, both analyst and office technician staff have been supplemented from a variety of sources, including staffing loans from DCA and other temporary staff in order to reduce backlogged applications and complaints. Temporary staffing is not shown on the organization chart.

Figure 1  
Board Organization Chart as of May 2015



<sup>1</sup> The office position is funded 0.6 through the budget and 0.4 through blanket funds.



## Methodology

The methodology to develop an understanding of existing workload and staffing for SLPAHADB involved the following steps:

- Review of the SLPAHADB Sunset Review 2012
- Review of the SLPAHADB 2012-2015 Strategic Plan
- Review of the existing duty statements for each SLPAHADB staff member
- Conduct interviews and/or observations of each SLPAHADB staff member in order to complete workload spreadsheets which detail the tasks assigned to each job, the volume of work associated with each task, and the time needed to complete each task
- Conduct interviews with SLPAHADB management to verify data collected from staff
- Review duty statements, position description questionnaires, and workload summary documents from comparable DCA Boards to verify and supplement data
- Review DCA Annual Reports and Governor's Budget for DCA to compare workload, staffing and performance measures

## Existing Workload Data Analysis

### **Methodology to Collect Workload Statistics**

The data to define the tasks and the hours needed to perform them for a defined body of work and/or a specific position were gathered during June – August 2015 through interviews, observation, and documentation of work volume using a workload calculation spreadsheet (example shown in Appendix A). To validate the initial collection of tasks, volume, and hours to complete tasks, each workload spreadsheet was edited by the incumbents. There was a limitation to this method of data collection because many SLPAHADB incumbents had little tenure and experience in their current assignment at the time the data was collected. In some cases, an individual incumbent was not fully trained or had not yet had the opportunity to perform all the steps in a duty with a long cycle time. To mitigate this limitation, the workload tasks, volumes and completion time estimates collected via incumbent interviews and observations were supplemented and/or verified by comparison to similar data from comparable boards or by review from previous SLPAHADB incumbents. Multiple incumbent and management reviews occurred in late 2015 and 2016 before a final report was published. It is acknowledged that organizational and staffing changes which may have occurred during early 2016 are not reflected in the data reported within this report.

The 2012 SLPAHADB Sunset Review Report, internal tracking reports maintained by management, reports from automated systems CAS/ATS, and manual logs and records kept by incumbents were used to verify numbers of applicants, licenses, complaints, and other items processed. The sources used are noted on the workload documents where applicable. A final

review and verification was conducted by Executive Officer and/or Staff Services Manager to identify any inconsistencies, duplication, and/or missing data.

### **Available Work Year Calculation**

The available work year for SLPAHADB staff members for this study is consistent with the calculation used by most State of California agencies for budgeting purposes. It is calculated by taking the base work year (52 weeks per year and 40 hours per week – 2080 hours) and adjusting it to remove annual leave, vacation, and sick leave. This calculation equates to 1776 hours available in a work year for a full time personnel year (PY) and 888 hours for a half time position.

### **Results of Workload Data Collection**

The remainder of this report summarizes the workload data collected. It also includes observations and comments related to existing workload and organizational structure gleaned from analysis of the data gathered and staff interviews.

### **Administration Workload Analysis**

#### **a. Administrative Support Existing Workload**

The Administration Unit currently has a total of one part time (0.6 PY) Office Technician position who is responsible for providing a variety of administrative support activities and assisting with preliminary application review. The Board funds the remaining 0.4 PY using blanket funds to make it equivalent to 1 full time OT. Based on employee interviews, work logs, and available operational records, the workload for the Administration unit is approximately 3.3 PY – more than three times the workload of one full time OT and more than five times the 0.6 PY that is currently allocated by the budget. The workload in the Administration unit is at least triple the number of budgeted staff currently assigned to that unit. A summary of functions performed by the Administration unit include:

- Administrative Support including processing calls and mail
- Cashiering checks received with applications, renewals
- Purchasing/ Contracts Specialists
- Personnel Support Duties including new employee folders, collecting/proofing timesheets
- Board Meeting Support including booking locations, assisting with travel plans/reimbursements, and preparing materials
- Initial application review for SLP/AU/HAD to verify completion, fingerprints, and identify deficiencies in submitted materials
- Review of Renewal applications to ensure completion



- Updating CAS/ATS systems with miscellaneous license updates such as license cancellations/replacements, supervisor responsibility statements for HAD licenses, and termination of HAD supervision requests

The workload data show that the amount of time needed to perform these support functions is 5,924 hours (3.3 PY) as shown in Table 1.1 but there is only 0.6 PY budgeted. Since FY 12-13, SLPAHADB has been supplementing the Office Technician staff through a series of temporary workers from various sources. For example, a temporary worker from the AARP program works approximately 800 hours a year assisting the Office Technicians mostly with mail processing and filing four days a week but occasionally with miscellaneous office support projects when available. Additionally, a second full time OT was hired as a temporary employee to provide assistance but that is only available as long as the budget has room to support it and cannot be relied upon. Additional Office Technician staffing is clearly needed at SLPAHADB.

**Table 1.1: Existing Administration Workload**

Existing Administration Workload		
Existing Hours of Workload	Available Work Hours for Existing 0.6 PY	Additional Staffing Needed Above Budgeted Hours
5,924 hours or 3.34 PY	1,066 hours or 0.6 PY	4,815 hours or 2.73 PY

**b. Enhanced or New Administration Workload**

There are additional administrative responsibilities related to legislative analysis and budget analysis that have not been assigned to staff. The current Executive Officer conveys that the former Executive Officer attempted to perform these responsibilities herself but there was often insufficient time to provide the focus needed. The time needed for these responsibilities increased after the merger of the HAD Bureau and the SLP/ AU Board brought together two sets of regulations and multiple license types but no analytical staffing to support legislation, regulations and budgeting. A description of this work follows with a summary presented in Table 1.2.

**Legislative Analysis:** SLPAHADB has no analyst assigned to assist management to identify, analyze, track and monitor relevant legislation, prepare bill analysis, respond to request for position papers on the impact of new legislation or work with DCA legislative and legal departments when needed. Since this workload has not been assigned to staff at SLPAHADB, consultants compiled a typical list of tasks and time estimates to perform them from job descriptions of comparable boards. These estimates were then vetted and modified, as appropriate, by the Executive Officer. Based on tasks and time estimates



devoted to this function in similar boards, an additional 352 hours annually is needed at SLPAHADB.

**Budget Analysis:** Similarly, SLPAHADB has no one assigned to assist the Executive Officer with budget preparation or with the monthly monitoring and year end tracking. Job descriptions from other boards were again used, along with estimates from the Executive Officer who has been performing some of this work. It is estimated that an additional 183 hours annually is needed to support monitoring the Board's budget at a minimal level.

**Table 1.2: Enhanced Administration Workload**

Enhanced Workload Analytical Administrative Support		
Legislative Analysis	Budget analysis	Total Additional Staffing Needed for New Work
352 hours	183 hours	535 hours or +0.3 PY

The type of legislative and budget analysis work described is typically performed by AGPAs or SSAs in other boards. At SLPAHADB, critical legislative and/or budget tasks are currently being performed by the Executive Officer, the Staff Services Manager, enforcement staff, or not getting done. Once additional analyst staffing is secured, it is recommended that the Executive Officer use the workload spreadsheets which define the enhanced budget, regulatory and board support workload to determine the best job design and analyst assignments.

### **Licensing and Exam Workload Analysis**

The Licensing and Exam unit consists of three Staff Services Analysts responsible for:

- Analyzing and processing application materials and issuing licenses for ten Speech Language Pathology and Audiology license types
- Analyzing and processing application materials for Hearing Aid Dispensers license types
- Administering practical licensing exam for Hearing Aid Dispensers and issuing licenses including processing exam applications, coordinating staffing/ examiners, setting up and assisting on the day of exam administration.

#### **a. Existing Workload**

The SLP/ AU licensing function is staffed by two Staff Services Analysts who receive, analyze and process materials for over 3,000 annual applicants for ten license types of Speech Language Pathologist and Audiologist professionals, assistants and aides. Professional examinations for SLP/AUs are administered by a national testing agency and therefore do not

add to the daily workload of these SSAs. Staffing for the SLP/AU licensing function is appropriate for the existing workload (see Table 1.3 for the Licensing and Examination workload summary).

The HAD Licensing and Examination unit consists of one Staff Services Analyst responsible for processing applications throughout the Hearing Aid Dispensers Examination and Licensure process. In 2014, this consisted of approximately 182 applications to take the Hearing Aid Dispensers Written Exam, 158 applications to take the Practical Examination, 104 new applicants for licensure after passing all examinations, and 190 applications for existing licensees to operate in a new location on an annual basis. In addition to processing applications, the analyst is responsible for coordinating Written Exam Development Sessions, processing written exam scores, and scheduling and assisting in the coordination and administration, of the Hearing Aid Dispensers Practical Exam.

The workload in HAD Licensing is approximately one-third more (.35 PY) than is currently allocated. Most of that overage can be attributed to tasks associated with approving courses to qualify for HAD Continuing Education Credit. At the time of data collection, SLPAHADB has been supplementing the HAD Licensing analyst through a temporary retired annuitant worker who works as needed to review the Continuing Education Credit approval applications. This duty is in the process of being shifted to the HAD Analyst and is included in the hours of existing workload shown in the licensing workload summary in Table 1.3.

#### **b. Enhanced or New Workload**

In addition to the existing workload described above, there are tasks associated with auditing the Continuing Professional Development program that have not been performed for several years due to unavailability of staffing. DCA Boards are responsible for verifying that professional development requirements are met by licensees but staff hours have not been devoted to this task in several years at SLPAHADB. The amount of staff time needed to enhance SLPAHADB's Continuing Professional Development Program is described in the following paragraphs.

**Continuing Professional Development (CPD) Program:** Statute<sup>2</sup> requires that all professionals registered by the SLPAHADB engage in continuing professional development and learning. The Board is charged with verifying this continuing education requirement before renewal<sup>3</sup>. Self-certification of completion of continuing education from an approved provider is documented by the licensee on the license renewal form. Random audits are to be performed by the Board to verify the licensees' statements of compliance.<sup>4</sup>

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<sup>2</sup> CCR 1399.160- 1399.160.13

<sup>3</sup> Business and Professions Code Section 2532.6

<sup>4</sup> SLPAHADB Sunset Review Report, 2012, pg. 38



Both the former SLPA Board and the HAD Bureau conducted annual CPD audits in the past. However, due to staff reductions, technology and other changes, the audits have not been consistently performed in recent years. In 2013-2014, one audit sample of 3% of the active licensees was conducted but that was the only audit of the SLPA and HAD licensees since 2010 and 2006 respectively.<sup>5</sup>

To restore the annual CPD audit process for a sampling of 5% of the active licensee population of Audiologists, Dispensing Audiologists, Speech Language Pathologists, SLP Assistants and Hearing Aid Dispensers (approximately 925 sampled from a total pool of 18,500 licensees), an additional 950 hours of time is needed. This work would primarily be performed by a licensing analyst with some support from administration.

Another component of the CPD Program that needs to be enhanced relates to the providers of the professional courses. For HAD, continuing education providers must have their courses approved by the Board on an annual basis. This approval process reviews the course description including the number of topics, instructor biographies, and the inclusion of an end of course survey for students to complete. This review and approval is being conducted by SLPAHADB and is reflected in the following summary table of existing workload.

The education provider requirements and processes for Speech Language Pathologists and Audiologists differs from HAD. The providers for continuing education for the SLP/AUs apply for approved provider status. The application approval process entails a paper review of course syllabi, time and location of the course offering, course advertisements, course instructor resumes or vitas, and records of course completion. The SLP/AU education providers must renew their application every two years, but there is no follow up at the time of renewal or random auditing to ensure that courses and instructors continue to meet requirements once the provider application is approved. An audit process similar to that used to randomly audit licensees was used to audit providers in the past but was eliminated due to staff shortages prior to 2010. Consequently, providers for SLP/AU continuing education are not routinely audited or reviewed as long as they renew their provider status on time. An additional 20 hours of licensing analyst time would be needed to restore an annual audit process for a sampling of 10% SLPAU providers.

The tables below summarize SLPAHADB's workload needs for the Licensing and Examination unit's existing workload plus enhancing the CPD audit programs. There is a shortage of 0.87 PY, assuming the CPD audit programs are resumed.

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<sup>5</sup> SLPAHADB Sunset Review Report, 2012, pgs. 39-40



**Table 1.3: Existing Licensing/ Exam Workload**

Existing Licensing/ Exam Workload		
Existing Hours of Workload	Available Work Hours for Existing 3.0 PY	Hours Over/ Under Existing Budgeted Hours
SLP/AU: 3,509 <sup>6</sup>	3,552 (2 PY)	-43
HAD: 2,396 <sup>7</sup>	1,776 (1 PY)	+620
Total: 5,905 hours or 3.32 PY	Total: 5,328 hours or 3.0 PY	577 hours or .32 PY

**Table 1.4: Enhanced Licensing/ Exam Workload**

Enhanced Licensing Workload		
CPD Provider Audits @ 10% rate	CPD Licensee Audits @ 5% rate	Additional Staffing Needed for Enhanced Work
20 hours	950 hours	970 hours or +.55 PY

### **Enforcement Workload Analysis**

#### **a. Existing Workload**

Programs serviced by the Enforcement unit include:

- Enforcement Complaints & Investigations
- Citations and Fines
- Disciplinary Action through Attorney General's Office
- Probation Compliance.

Currently one incumbent in the Special Investigator classification coordinates the Enforcement program which includes Disciplinary Actions through the Attorney General's Office and Probation Compliance. Two AGPA's are established to perform the Enforcement Complaints/ Investigations and Citations and Fines workload. However, one AGPA performs the enforcement duties full time, while the second devotes approximately 30% time to

<sup>6</sup> Includes 3,414 hours to process licenses for SLP/AU practitioners plus 95 hours to process applications for providers of continuing education for the SLP/AU profession

<sup>7</sup> Includes 1,010 hours to process HAD licenses, 856 hours related to HAD exam development and administration, and 530 hours to review and process Continuing Education Credit Course approval applications. The 530 hours for CE tasks has been performed by temporary staff.

enforcement. Due to a Board priority need for regulatory support, 70% of the time of the second Enforcement AGPA is devoted to preparing regulatory packages for Board consideration and other Board Support duties. This negatively impacts the Enforcement unit's ability to perform the workload.

In order to analyze the enforcement body of work plus the regulatory and board support work, the data is presented in several ways.

1. Enforcement complaints/investigations and cite and fines only (performed by 1 full time PY and 30% of another).
2. Disciplinary action and probation compliance only (performed by 1 full time PY).
3. Regulatory and board support workload only (approximately 70% of a PY).
4. Total workload enforcement and regulatory/board support (3 PY total in the unit).

**Table 1.5: Existing Enforcement Workload**

Existing Enforcement and Regulatory Support Workload				
Workload Analysis in Enforcement Unit of 3PYs	Existing Hours of Workload	Available Budgeted Hours	PYs Assigned	Hours Over/Under Available Budgeted Hours
Complaints/Investigations, Cite & Fine	2,439	2,309 <sup>8</sup>	1.3 PY	+130
Disciplinary Action & Probation Compliance	1,556	1,776	1 PY	-220
Regulatory and Board Support	1,197	1,243 <sup>9</sup>	.7 PY	-46
Total Enforcement, Regulatory & Board Support	5,192	5,328	3.0 PY	-136

Based on the data collected, the Enforcement Unit is appropriately staffed. However, the workload statistics are calculated based on the time needed to process the number of new complaints and discipline filed annually. While this is a good measure of the Board's on-going needs in Enforcement, it may not reflect the Board's current reality. The SLP AHADB has had a backlog of Enforcement workload for several years and has not been meeting its performance measures (see the Comparisons to Other Boards section of this report). The current staff is now attempting to clear that backlog but they are working at less than optimal efficiency as they search and review old information or conduct more research to identify current status of dated complaints and discipline. This inefficiency cannot be removed until work becomes current.

<sup>8</sup> 1PY AGPA plus assigned 30% of a second PY AGPA

<sup>9</sup> Assigned 70% of 1PY AGPA

In addition, at the time the workload data was collected, the Enforcement Unit was in a state of transition with two incumbents having less than one year tenure and one with only two months tenure. The Executive Officer has identified additional duties he would like to assign to this unit when the staff members are fully trained.

## Comparisons to Other Boards

To further analyze SLPAHADB's organization structure and workload, data were collected on a sampling of organizational metrics from other DCA Boards. It is recognized that each Board must tailor its operations to service its unique licensee populations so direct comparison among Boards is difficult. Nevertheless, it is useful information to observe the relative ratio of staff to licensees in a sampling of Boards as an indication of appropriate staffing levels. In order to compare like years, data shown in Table 1.6 on the next page were gathered from the most current published DCA annual reports at the time data was collected for this study.<sup>10</sup>

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<sup>10</sup> California Department of Consumer Affairs, 2014-15 Annual Reports



**Table 1.6: Licensing Comparisons**

Licensing Descriptive Data for Comparable DCA Boards								
Source: DCA 2014/15 Board Annual Reports <sup>11</sup>								
Metric	Osteopathic Medical	Psychology	Optometry	Veterinary Medicine	Respiratory Care	Acupuncture	Occupational Therapy	SLPAHAD
Staffing PYs <sup>12</sup>	11.4	21.3	12.5	24.8	18.4	12.0	8.7	9
Number and Types of Licenses	1. Osteopathic Physicians & Surgeons 2. Fictitious Name Permit	1. Psychologist 2. Registered Psychologist 3. Psych. Assistant	1. Optometrist 2. Branch 3. Fictitious Name Permit 4. Therapeutic Pharmaceutical Agent 5. Lacrimal Irrigation & Dilation Certificate 6. Glaucoma Certification	1. Veterinarian 2. Vet. Tech 3. Hospital	1. Respiratory Care Practitioner	1. Acupuncture 2. Acupuncture Schools	1. Occupation Therapist 2. Occupation Therapy Assistant	1. RPE 2. Audiologist 3. Dispensing Audiologist 4. Branch 5. Hearing Aid 6. Speech Language Pathologist (SLP) 7. SLP Assist. 8. SLP Aide 9. Prof. Dev. Provider 10. Temp. Trainee
Total License Population	9,632	22,556	11,117	30,328	22,801	17,581	16,712	19,784
Ratio of Staff to License Population	1:845	1:1059	1:889	1:1223	1:1239	1:1465	1:1921	1:2198

<sup>11</sup> California Department of Consumer Affairs, 2014/15 Annual Report

<sup>12</sup> Civil Service and exempt positions approved in the state budget, California DCA, 2014/15 Annual Report

As can be seen by Table 1.6, SLPAHADB services its licensees and consumers with the fewest number of employees per licensee than any of the other Boards surveyed. Some boards have more than double the number of staff per licensee than found in SLPAHADB. In addition, SLPAHADB has the most license types of the boards surveyed.

**Table 1.7: Enforcement Comparisons**

<b>Enforcement Performance Data for Comparable DCA Boards FY 2013-14<sup>13</sup></b>						
<b>Metric</b>	<b>Osteopathic Medical</b>	<b>Optometry</b>	<b>Occupational Therapy</b>	<b>Respiratory Care</b>	<b>SLPAHAD</b>	<b>SLPAHAD</b>
	<b># Cases/ Avg days</b>	<b># Cases/ Avg days</b>	<b># Cases/ Avg days</b>	<b># Cases/ Avg days</b>	<b># Cases/ Avg days</b>	<b>Target</b>
<b>Intake Cycle Time</b> – Avg days from receipt of complaint to date complaint assigned for investigation	368 Cases/ 12 days	240 Cases/ 3 days	749 Cases/ 1 day	808 Cases/ 2 days	161 Cases/ 2 days	5 days
<b>Investigation Cases</b> – Avg days from receipt of complaint to closure of investigation	185 Cases/ 235 days	251 Cases/ 177 days	619 Cases/ 97 days	765 Cases/ 108 days	154 Cases/ 344 days	90 days
<b>Formal Discipline</b> – Avg days to complete entire enforcement process for cases referred to AG's office	27 Cases/ 710 days	21 Cases/ 655 days	20 Cases/ 626 days	67 Cases/ 569 days	13 Cases/ 664 days	540 days

While SLPAHADB's performance measures related to intake cycle times meet standards and are similar to that of comparable boards, the time to investigate cases and process formal discipline does not meet standards. The time to investigate cases exceeds standards by almost 400% and is more than 100 days longer than the next best board. If backlog is defined as not meeting performance target, SLPAHADB has a significant backlog (344 days instead of 90 days). Prior to FY 14-15 Enforcement Analysts processed both investigation cases and formal discipline cases. At the beginning of FY 14-15, SLPAHADB hired an AGPA to focus on formal discipline, thereby freeing Enforcement Analysts to focus on investigation cases. However, the lag time on enforcement cases is so long that improvement will not be noted for some time.

<sup>13</sup> Performance Based Budget 2014-15, California Business, Consumer Services and Housing Agency

## Workload Observations and Recommendations

The objective of component one of this study was to provide a review of the SLPAHDB staffing and workload to identify work currently being done and work currently not being done due to shortages of staff. This included identifying whether there were sufficient staff resources within each unit and making any corresponding recommendations for staff allocations or assignments. The primary observations and recommendations are presented in the following summary table.

**Table 1.8: Observations, Challenges, and Recommendations**

Summary of Observations, Challenges and Recommendations	
Administration	
<b>Office Technician Staffing Levels</b>	The current workload in the administration unit justifies 3.3 office technicians, but there is only one part time position (0.6 PY) allocated in the budget resulting in the unit being understaffed by 2.7 office technicians. This measurement was based on time estimates provided by staff and comes with a caveat given their short tenure. It is feasible that time estimates are inflated due to staff only having experience during the busier period of the year. However, even with this consideration, the Board has exhibited the need over several years to supplement the Administrative Unit with a part time AARP and full time temporary position for a total of 2.6 PY to meet current administrative needs. This supports the need for at least 2.6 additional OT's to remain current on existing work. Furthermore, work was identified that is currently being done by analysts or higher that can be allocated to the OT position.
<b>OT Proactive Planning Future Needs</b>	The current workload for the Office Technician is significantly higher than the allocated staff. In addition to supporting the workload in the other units, OT tasks include the processing of license cancellations, supervisory responsibility statements, and renewal applications. To avoid such a significant disparity in the future, it is recommended that the operations manager pull CAS/ATS reports for these transactional activities to monitor any increases or decreases in OT workload as a tool in projecting future staffing needs.
<b>OT Inconsistent Procedures</b>	The consultants observed some inconsistencies in processes remaining from the merger of the HAD Bureau and the SLP/AU Board. An example is the initial review of incoming applications that have deficient or missing information. When reviewing deficient licensing applications for Speech and Audiologists, the OT is instructed to copy the page that is deficient, send the original back through USmail and have the applicant complete the page and resubmit the corrected version. This delays the applicant receiving information and takes more OT time, but the applicant only has



<b>Summary of Observations, Challenges and Recommendations</b>	
<b>Administration</b>	
	to fix the deficient pages. While reviewing deficient Hearing Aid Dispensers applications the OT emails the applicant, notifying him/her of what is missing/ incorrect with instructions to resubmit the entire paper application (minus the prints, picture if those are with the original). This more efficiently notifies the applicant, but then the applicant has to resubmit all the information. This discrepancy in this process is currently being addressed by the SSM I, however it would be prudent to examine the steps of other processes to identify any additional inconsistencies remaining from the merger of the HAD Bureau and the SLP/AU Board.
<b>OT Cashiering</b>	Cashiering to process application and renewal fees occurs twice per week with current regular and temporary staffing. The Executive Officer endorses processing monies more frequently as a good accounting practice and as recommended in the State Administrative Manual but there has been insufficient staffing to complete daily cashiering as well as manage the daily clerical support tasks. If OT staffing levels were increased as described above, these improvements could be realized.
<b>Administrative Work Not Being Done</b>	Legislative analysis and budget analysis is currently being done by the Executive Officer when required. The Executive Officer desires administrative support assigned to attend to these critical responsibilities. Based on tasks and time estimates devoted to this function in similar boards, an additional 352 hours is needed to perform legislative analysis and 183 hours for budget analysis (a total of .3 PY).

<b>Summary of Observations, Challenges and Recommendations</b>	
<b>Licensing</b>	
<b>Licensing Staffing Levels</b>	<p>The licensing and examining functions are only slightly understaffed for processing license applications and renewals (0.32 PY understaffed). However, the Board has not met its obligation to audit continuing education requirements in several years. To adequately staff the licensing functions plus the additional hours needed to maintain programs relating to continuing education, an additional 0.87 PY in the Licensing Unit would be justified.</p> <p>If the Board does not wish to add another analyst position, another option would be to evaluate if there are duties performed by the licensing analysts that could appropriately be performed by OTs and augment the OT request for additional budgeted positions accordingly. Regardless of the decisions related to additional staffing, the licensing and examination functions could benefit from a process improvement assessment. Since the licensing workload includes processing a high volume of applications, even small efficiencies in processes can equate to significant hours of work.</p>
<b>HAD Licensing &amp; Exams Backup</b>	<p>One Staff Services Analyst is assigned the HAD Licensing and Examination responsibilities. The incumbent receives support from the Office Technicians for some licensing process steps and from the Staff Services Manager when examinations are administered. The daily functions, however, are performed by the one incumbent, leaving the organization vulnerable to turnover or extended absence. It is recommended that other staff member(s) be cross trained and/or assigned responsibility for a portion of these duties in order to have adequate backup for this function.</p>
<b>HAD CEC Course Approvals</b>	<p>Currently courses are required to renew approval on an annual basis. It is recommended that the Board pursue a modification to the regulation so it is required every two years as courses may not change substantially in a one year period. This would also align HAD with the two-year cycle for renewal of SLP/AU continuing providers.</p>
<b>Licensing Work Not Getting Done</b>	<p>As noted above continuing education provider audits and licensee audits for SLP/AU are not being done. An estimated additional 970 hours (0.55 PY) would be needed to routinely perform these audits at a minimal level.</p>



Summary of Observations, Challenges and Recommendations	
Enforcement	
<b>Enforcement Staffing Levels</b>	<p>Based on time estimates needed to process on-going workload, the Enforcement Unit appears to be staffed appropriately. However, there is an existing backlog of old cases which obscures analysis of staffing levels. The average time to close an investigation filed at SLPAHADB was 344 days in FY 13-14 (with a performance target of 90 days). The existing staff is not only processing the in-coming new complaints but also attempting to close old complaints. Completing old cases, delays the efficient processing of the current cases due to the need to re-review old information or conduct more research to identify current status of dated complaints. It is recommended that temporary staff from DCA be used to clear the old complaint cases which should then allow staff to efficiently process new complaints.</p> <p>It should be noted that as old cases are completed, the performance measures will actually get worse before they get better. The performance measure “time to close an investigation” is not tallied until a case is completed so clearing older cases will contribute to a higher average time to close during the time the backlog is being addressed.</p>

### Ancillary Observations

**Duty statements inaccurate:** The scope of this study did not include a classification review of all positions at SLPAHADB. However, during the review of the workload of each position, the CPS HR consultants noted that all duty statements could use minor updating of the description of duties and adjustments to the percent of time devoted to each function. In addition, there were a few duty statements needing major revisions. Those that need particular attention include:

- a) **Special Investigator** – Existing duty statement is for Special Investigator. Some of the duties apply to the current job but a revision is needed.
- b) **AGPA Enforcement and Regulatory** – Existing duty statement describes this position as primarily an enforcement analyst with 25% of time assigned to the regulatory program. Approximately 70% of the current job is devoted to the regulatory program.
- c) **AGPA Enforcement Analyst** – Existing duty statement describes the discipline process rather than the complaint processing function. Complaint processing is the focus of this job. The discipline process is the responsibility of the Enforcement Coordinator (Special Investigator).
- d) **HAD Staff Services Analyst** – Existing duty statement lists 15% of time to process licensing renewals. This is no longer a part of the HAD Analyst job and is now assigned to the Office Technician.



e) **Office Technician**– Existing duty statement indicates Personnel support duties (e.g., processing personnel transaction documents, updating Board orientation manual, reviewing staff timesheets) consume 15% of total time. However, current staff estimates indicate it is closer to 1-2%. Additionally, the current OT duty statement is missing the following key sections that had previously been the responsibility of other temporary and permanent staff but is considered a part of the OT workload calculation.

- From the Seasonal Clerk duty statement – the “Clerical Support” covering incoming and outgoing mail and the “Special Projects” covering the miscellaneous support.
- From the Seasonal Clerk duty statement – the “Licensing Documents – Filing and Review”. This includes the responsibilities of reviewing the completion of licensing documents, sending out deficiency letters, updating licensee information, processing licensure verification requests, and filing licensing documents as needed.
- From the HAD Staff Services Analyst duty statement, the “Process License Renewals” as both the OT and the HAD Analyst acknowledged this is fully a part of the OT job responsibilities.

## Appendix A: Sample Workload Calculation Sheet

<b>DCA SLPA-HAD</b>							
<b>WORKLOAD STUDY FY 2015</b>							
<b>(Job Title)</b>							
<b>JOB TASKS</b>		<b># Per Day</b>	<b># Per Week</b>	<b># Per Month</b>	<b># Per Year</b>	<b>Hours Each</b>	<b>Hours Per Year</b>
<b>I. Job Function: (Overall Job Function, e.g., Process mail, Confirm Purchases)</b>							
<b>Duty:</b>	<b>1. General Duty Statement</b>						
<b>Sources:</b>	Employee interviews, work logs						
<b>Tasks:</b>	Sub Task 1.1	1				0.75	198.00
	Sub Task 1.2	2				0.17	88.00
	Sub Task 1.3	5				1.00	1320.00
	Sub Task 1.4		1			4.00	206.40
<b>TOTAL JOB FUNCTION I:</b>							1812.40
<b>II. Job Function: (Overall Job Function, e.g., Process mail, Confirm Purchases)</b>							
<b>Duty:</b>	<b>2. General Duty Statement</b>						
<b>Sources:</b>	Employee interviews, work logs						
<b>Tasks:</b>	Sub Task 2.1			1		2.00	24.00
	Sub Task 2.2		2			1.25	129.00
	Sub Task 2.3	6				0.25	396.00
<b>TOTAL JOB FUNCTION II:</b>							549.00
<b>OVERALL HOURS ACROSS ALL JOB FUNCTIONS</b>							2361.40
<b>OVERALL PY NEEDED TO COMPLETE JOB (based on 1,776 hours a year)</b>							1.33



## MEMORANDUM

<b>DATE</b>	August 1, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Executive Officer Report</b>

This report and the statistical information provided by staff, is to update you on the current operations of the Board.

### **Administration/Personnel/Staffing**

The Board is recruiting for a licensing analyst. This position will work with our licensing team which is responsible for reviewing and processing speech-language pathology and audiology applications. This permanently funded position was obtained through the formal budget process as a long term solution to address our licensing workload.

### **Board Budget**

Included in your Board materials is the Expenditure Summary Reports which reflects the final month of the 2015-16 budget year. Based on this report, the Board expended \$2.14 million (97 percent, almost its entire budget). The Board's revenue has continued to increase along with our overall licensee population with a growth of eight percent from the previous year totaling \$2.02 million. The revenue and expenditure figures are on target with the Board's mid-year projections.

Working in conjunction with the DCA Budgets and Attorney General's Offices, the Board was successful in attaining a mid-year augmentation of \$82,000 to its Attorney General line item which allowed formal discipline cases to continue without interruption. The augmentation also prevented the Board from eliminating any of the scheduled hearing aid dispenser (HAD) practical examinations for the year.

As discussed in previous meetings, Board staff worked with CPS-HR Consulting to assess the adequacy of the Board's staffing in handling the workload of the Board. As a result we are attempting to address its staffing needs through the formal budget process. This involves a budget change proposal to request the establishment of additional positions and permanent funding.



## **Licensing/Exams/Enforcement**

Included in your Board materials are statistical reports for your review. Management and staff will be present at the Board meeting to answer any questions you have regarding these reports.

Licensing – Board licensing staff have done an incredible job in keeping up with the workload demand during our peak season. In addition, we were successful in reducing the speech-language pathology and audiology license application processing time frames by 50 percent from last year.

Board licensing timeframes:

Licensing Cycle Times	8/1/15	11/1/15	2/1/16	5/1/16	8/1/16
SLP and Audiologists Complete Licensing Applications	6 weeks	7 weeks	7 weeks	2 weeks	2 weeks
Review and Process SLP and Audiologist Supporting Licensing Documents	6 weeks	7 weeks	6 weeks	3 weeks	3 weeks
Review and process RPE applicant's Verification Forms for Full Licensure	6 weeks	7 weeks	4 weeks	2 weeks	2 weeks
Hearing Aid Dispensers Applications	5 weeks	3 weeks	3 weeks	2 weeks	Current

Practical Examinations – In the 2015-16 fiscal year, the Board conducted eight HAD practical examinations, four more than the previous year.

Included in your Board materials are statistical summaries from our most recent HAD practical examinations that were held on April 30, June 11, and July 9, 2016. There are two upcoming examinations planned for 2016.

Board staff in conjunction with the Office of Professional Examinations Services conducted four workshops in the 2015-16 fiscal year for the purposes of making improvements and consolidating items on the practical examination.

Enforcement – The number of complaints received increased by 20 percent and the number of convictions received more than doubled in the 2015-16 fiscal year. Despite the increase in workload, the Board improved in all areas of the DCA performance measures for Enforcement.

This fiscal year the Board filed 27 accusations and 4 statements of issues. There are currently 34 formal discipline cases pending with the Attorney General's Office. The Board is currently monitoring 26 probationers. Six probationers require drug or alcohol testing and nine are in a tolled status.

The following disciplinary actions have been adopted by the Board in fiscal year 2015-16:

Name	License No.	License Type	Case No.	Eff. Date	Action Taken
Dill, Ann	SP 6720	Speech-Language Pathologist	1I 2015 39	6/20/16	Revocation Stayed, 3 Yrs Probation w/ Specified Terms & Conditions
Kadokia, Arpi	SP 18449	Speech-Language Pathologist	1I 2015 40	6/2/16	Revocation Stayed, 5 Yrs Probation w/ Specified Terms & Conditions
Bahm, Natasha	HA 7395	Hearing Aid Dispenser	1C 2014 34	4/18/16	Revocation of License
Youssef, Susan	SPA 3757	Speech-Language Pathology Assistant	1I 2015 13	12/30/16	Revocation Stayed, 3 Yrs Probation w/ Specified Terms & Conditions
Austin, Jennifer	SP 22883	Speech-Language Pathologist	1I 2013 73	3/25/16	Surrender of License During Probation
Nicholson, Mary	SPA 1460	Speech-Language Pathology Assistant	1I 2015 13	12/24/15	Revocation of License
Green, Robert	AU 1100	Audiologist	1I 2011 57	12/21/15	Revocation Stayed, 2 Yrs Probation w/ Specified Terms & Conditions
Crocker, Taran	HA 7542	Hearing Aid Dispenser	1C 2015 65	11/18/15	License Surrender During Probation
Wolford, Julia	SP 13872	Speech-Language Pathologist	1I 2013 33	9/11/15	Revocation Stayed, 5 Yrs Probation w/ Specified Terms & Conditions
Beckwith, John	HA 7606	Hearing Aid Dispenser	1C 2014 12	8/12/15	Stipulated Surrender of License
Rawlinson, Kristin	SP 19002	Speech-Language Pathologist	1I 2014 22	8/9/15	Revocation of License
Trythall, Michael	AU 2225	Audiologist	1I 2014 63	7/31/15	Stipulated Surrender of License
Blanchard, Miriam	SP 8627	Speech-Language Pathologist	1I 2012 70	7/22/15	Revocation Stayed, 90 Day Suspension, 7 Yrs Probation w/ Specified

Name	License No.	License Type	Case No.	Eff. Date	Action Taken
					Terms & Conditions
Rios, Keith	HA 5058	Hearing Aid Dispenser	1C 2010 155	7/24/15	Revocation Stayed, 5 Yrs Probation w/Specified Terms & Conditions
Frangos, Nicole	SP 18907	Speech-Language Pathologist	1I 2012 66	7/24/15	Revocation Stayed, 5 Yrs Probation w/ Specified Terms & Conditions

## Regulations Update

Board staff has one regulatory item for your review and approval. Below is a table of the Board's rulemaking files with status and comments.

Rulemaking File	Final Filing Date	Status	Comments
Disciplinary Guidelines		8/16 – Drafting ISOR and Notice. 2/5/16 – Board Approved language.	Needs Legislative/Legal review before publishing.
Fees: Speech-Language Pathology and Audiology		8/1/16 – ISOR, Notice, and Approved language sent to DCA Legal Office for review. 6/15 – Board approved language.	Needs Legislative/Legal review before publishing.
Hearing Aid Dispenser Advertising Guidelines		8/16 – Drafting ISOR and Notice. 5/16 – Board approved proposed amended language.	Needs Legislative/Legal review before publishing.
Speech-Language Pathology and Audiology Self Study Hours		10/16 – Drafting ISOR and Notice. 11/15 – Board approved proposed language.	Needs Legislative/Legal review before publishing.
Speech-Language Pathology Assistant/ Supervised Clinical Experience Clock Hours	10/8/16	8/12/16 – Board to review comments and staff recommendations. 6/28/16 – Comment period ended. 5/16 – Board approved Clock hours language 2/14 – Board approved original SLPA language.	



# Executive Officer Report

August 1, 2016

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Hearing Aid Dispenser Continuing Education	9/20/16 (Extended)	7/19/16 – To DCA Legislative Office for review. 6/21/16 – 15-day comment period ended – no comments. 3/22/16 – Disapproved 11/14 – Submitted to OAL 1/13 – Board approved original language.	Includes self-study changes.
Fees: Hearing Aid Dispensers	10/8/16	7/19/16 – To DCA Legislative Office for review. 6/16/16 – Additional 15-day comment period ended. No Comments. 3/15/16 – 15 day comment period ended. No comments. 9/15 – Submitted to OAL. 6/15 – Proposed language Board approved.	
Supervised Clinical Experience Clock Hours		Merged with SLPA file.	
HAD Self Study Hours		Merged with HAD CE file.	

### **Strategic Plan Update**

Included in your Board materials is staff's Action Plan for implementing the Board Strategic Plan. Please review the plan and be prepared to discuss any questions or issues you may have on the detail or with the prioritization of the goals.

**Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board - 0376**  
**BUDGET REPORT**  
**FY 2015-16 EXPENDITURE PROJECTION**

Prelim FM13

OBJECT DESCRIPTION	FY 2014-15		FY 2015-16				
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES 6/30/2015	BUDGET STONE 2015-16	CURRENT YEAR EXPENDITURES 6/30/2016	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	391,673	391,673	455,000	444,504	98%	444,504	10,496
Statutory Exempt (EO)	82,680	82,680	82,000	87,227	106%	87,227	(5,227)
Temp Help Reg (Seasonals)	54,350	50,877	1,000	33,634	3363%	33,634	(32,634)
Temp Help (Exam Proctors)	4,592	4,592	0	1,114		1,114	(1,114)
Board Member Per Diem			6,000		0%		6,000
Committee Members (DEC)	4,100	4,100	0	4,500		4,500	(4,500)
Overtime	18,128	18,128	5,000	20,036		20,036	(15,036)
Staff Benefits	228,845	228,794	255,000	263,401	103%	263,401	(8,401)
<b>TOTALS, PERSONNEL SVC</b>	<b>784,368</b>	<b>780,844</b>	<b>804,000</b>	<b>854,416</b>	<b>106%</b>	<b>854,416</b>	<b>(50,416)</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	19,009	17,194	43,000	12,430	29%	12,430	30,570
Fingerprint Reports	20,635	18,136	28,000	24,843	89%	24,843	3,157
Minor Equipment	3,406	3,406	0	827		827	(827)
Printing	3,667	3,632	24,000	6,799	28%	6,799	17,201
Communication	3,097	3,097	17,000	4,530	27%	4,530	12,470
Postage	26,374	26,374	23,000	27,206	118%	27,206	(4,206)
Insurance	0	0	0	0	0%	0	0
Travel In State	31,425	29,539	34,000	33,202	98%	33,202	798
Travel, Out-of-State	0	0	0	0		0	0
Training	465	465	6,000	50	1%	50	5,950
Facilities Operations	65,835	65,835	113,000	63,832	56%	63,832	49,168
Utilities	0	0	0	0	0%	0	0
C & P Services - Interdept.	5,377	5,377	24,000	21,784	91%	21,784	2,216
C & P Services - External	1,325	1,325	0	1,200		1,200	(1,200)
<b>DEPARTMENTAL SERVICES:</b>							
Departmental Pro Rata	159,192	160,299	171,000	171,000	100%	171,000	0
Admin/Exec	98,480	98,480	108,000	108,000	100%	108,000	0
IA w/ OPES	62,976	62,976	0			0	0
DOI-ProRata Internal	2,679	3,105	3,000	3,000	100%	3,000	0
Communications Division	3,109	3,109	7,000	7,000	100%	7,000	0
PPRD Pro Rata	3,004	3,099	0	0	0%	0	0
<b>INTERAGENCY SERVICES:</b>							
Interagency Services	0	0	29,000	10,214	0%	10,214	18,786
Consolidated Data Center	224	214	9,000	266	3%	266	8,734
DP Maintenance & Supply	2,901	2,901	17,000	6,696	39%	6,696	10,304
Central Admin Svc-ProRata	79,026	79,026	146,000	146,443	100%	146,443	(443)
<b>EXAM EXPENSES:</b>							
Exam Supplies	0		0			0	0
Exam Freight	0		0			0	0
Exam Site Rental	4,149	4,149	8,000	1,618	20%	1,618	6,382
C/P Svcs-External Expert Administrative	10,445	10,445	25,000	28,152	113%	28,152	(3,152)
C/P Svcs-External Expert Examiners	0		38,000		0%	0	38,000
C/P Svcs-External Subject Matter	68,725	67,725	0	99,434	0%	99,434	(99,434)
<b>ENFORCEMENT:</b>							
Attorney General	152,182	152,182	173,000	189,597	110%	189,597	(16,597)
Office Admin. Hearings	14,423	14,423	22,000	26,030	118%	26,030	(4,030)
Court Reporters	1,258	758	0	594		594	(594)
Evidence/Witness Fees	7,050	6,550	7,000	13,989	200%	13,989	(6,989)
DOI - Investigations	283,575	291,358	342,000	342,000	100%	342,000	0
Major Equipment	3,860	3,860	0			0	0
Other - Clothing & Pers Supp	0		0			0	0
Special Items of Expense	0		0			0	0
Other (Vehicle Operations)	0		15,000			0	15,000
<b>TOTALS, OE&amp;E</b>	<b>1,137,873</b>	<b>1,139,039</b>	<b>1,432,000</b>	<b>1,350,736</b>	<b>94%</b>	<b>1,350,736</b>	<b>81,264</b>
<b>TOTAL EXPENSE</b>	<b>1,922,241</b>	<b>1,919,883</b>	<b>2,236,000</b>	<b>2,205,152</b>	<b>99%</b>	<b>2,205,152</b>	<b>30,848</b>
Sched. Reimb. - Fingerprints	(18,326)	(18,326)	(31,000)	(30,772)	99%	(30,772)	(228)
Sched. Reimb. - Other	(4,465)	(4,465)	(2,000)	(6,110)	306%	(6,110)	4,110
Distributed			0				0
Unsched. Reimb. - Other	(9,011)	(9,011)	0	(25,923)		(25,923)	25,923
<b>NET APPROPRIATION</b>	<b>1,890,439</b>	<b>1,888,081</b>	<b>2,203,000</b>	<b>2,142,348</b>	<b>97%</b>	<b>2,142,348</b>	<b>60,653</b>
<b>SURPLUS/(DEFICIT):</b>							<b>2.8%</b>





# Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

As of June 30, 2016

## Licenses Issued

LICENSES ISSUED	FY10/11	FY11/12	FY12/13	FY13/14	FY14/15	FY15/16
AU	57	55	76	57	89	48
AUT	2	1	1	0	0	0
DAU	78	20	19	UA	UA	26
SLP	734	911	1056	974	1143	1352
SPT	1	0	0	0	0	0
SLPA	312	346	407	325	550	606
RPE'S	513	667	727	702	836	834
AIDES	52	44	51	40	48	44
CPD PROVIDERS	15	16	9	15	17	22
HAD Permanent	50	91	84	49	92	140
HAD Trainees	77	94	95	139	145	180
HAD Licensed in Another State	12	6	7	5	9	16
HAD Branch Office	205	192	132	282	426	407
<b>TOTAL LICENSES ISSUED</b>	<b>2108</b>	<b>2443</b>	<b>2664</b>	<b>2588</b>	<b>3355</b>	<b>3675</b>

## Licensing Population

POPULATION	FY10/11	FY11/12	FY12/13	FY13/14	FY14/15	FY15/16
AU	622	595	609	UA	612	556
DAU	911	930	942	UA	988	1,045
Both License Types	1,533	1,525	1,551	1,555	1,600	1,601
AUT	0	0	0	0	0	0
SLP	11,349	12,020	12,696	13,285	13,967	14,860
SPT	0	0	0	0	0	0
SLPA	1,304	1,529	1,771	1,969	2,343	2,795
RPE'S	608	665	682	768	802	806
AIDES	215	181	120	119	124	133
HAD	932	938	946	913	948	996
HAD Trainees	83	97	95	145	160	158
HAD Licensed in Another State	12	6	9	8	7	18
HAD Branch Office	601	627	653	710	821	963
<b>TOTAL LICENSEES</b>	<b>16,637</b>	<b>17,588</b>	<b>18,523</b>	<b>19,472</b>	<b>20,772</b>	<b>22,330</b>





Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board  
Hearing Aid Dispensers Practical Examination

April 30, 2016

Candidate Type	Number of Candidates	Passed	%	Failed	%
<b>Applicants with Supervision (Temporary License)</b>					
HA	21	15	71%	6	29%
AU					
RPE					
Aide					
<b>Applicants Licensed in Another State (Temporary License)</b>					
HA	2	1	50%	1	50%
AU					
<b>Applicants without Supervision</b>					
HA	24	14	58%	10	42%
AU					
RPE					
<b>TOTAL:</b>	<b>Total Number of Candidates</b>	<b>Passed</b>	<b>%</b>	<b>Failed</b>	<b>%</b>
	47	30	64%	17	36%



Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board  
Hearing Aid Dispensers Practical Examination

June 11, 2016

Candidate Type	Number of Candidates	Passed	%	Failed	%
<b>Applicants with Supervision (Temporary License)</b>					
HA	2	1	50%	1	50%
AU	3	3	100%		
RPE					
Aide					
<b>Applicants Licensed in Another State (Temporary License)</b>					
HA	1	0	0%	1	100%
AU					
<b>Applicants without Supervision</b>					
HA	17	11	65%	6	35%
AU					
RPE					
<b>TOTAL:</b>	<b>Total Number of Candidates</b>	<b>Passed</b>	<b>%</b>	<b>Failed</b>	<b>%</b>
	23	15	65%	8	35%





Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board  
Hearing Aid Dispensers Practical Examination

July 9, 2016

Candidate Type	Number of Candidates	Passed	%	Failed	%
<b>Applicants with Supervision (Temporary License)</b>					
HA	27	14	52%	13	48%
AU	4	4	100%		
RPE	1	1	100%		
Aide					
<b>Applicants Licensed in Another State (Temporary License)</b>					
HA	2	1	50%	1	50%
AU					
<b>Applicants without Supervision</b>					
HA	9	4	44%	5	56%
AU					
RPE					
<b>TOTAL:</b>	<b>Total Number of Candidates</b>	<b>Passed</b>	<b>%</b>	<b>Failed</b>	<b>%</b>
	43	24	56%	19	44%





# Speech-Language Pathology Audiology Hearing Aid Dispensers Board

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
<b>COMPLAINTS AND CONVICTIONS</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Complaints Received	71	28	86	41	56	41	74	43
Convictions Received	7	41	6	29	4	27	27	58
Average Days to Intake	1	2	2	2	31	31	2	2
Closed	103	87	104	69	107	46	109	130
Pending	111	29	100	30	55	56	46	31

*Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator. DCA Performance Measure: Target 5 Days.*

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
<b>INVESTIGATIONS Desk</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	98	69	91	68	59	64	101	101
Closed	91	80	84	63	89	41	107	124
Average Days to Complete	360	220	458	128	339	250	107	138
Pending	84	27	80	28	46	48	42	30

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
<b>INVESTIGATIONS DOI</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	25	0	12	5	2	3	0	2
Closed	6	6	20	5	15	2	2	6
Average Days to Complete	758	697	451	503	722	527	392	382
Pending	27	1	19	2	6	3	4	1

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
<b>ALL TYPES OF INVESTIGATIONS</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Closed Without Discipline	94	77	93	60	83	37	93	112
Cycle Time - No Discipline	383	243	470	152	347	234	74	115

*Average cycle time from complaint receipt to closure of the investigation process.*

*Does not include cases sent to the AG or other forms of formal discipline.*

*DCA Performance Measure: Target 90 Days.*

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
<b>CITATIONS/Cease&amp;Desist</b>	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Issued	6	3	7	3	3	8	4	5
Avg Days to Complete Cite	654	794	358	453	292	188	195	305
Cease & Desist Letter	26	0	9	0	5	1	0	1

# Speech-Language Pathology Audiology Hearing Aid Dispensers Board

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
ATTORNEY GENERAL CASES	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Pending at the AG	12	12	9	13	17	13	18	16
Accusations Filed	1	3	3	6	5	6	8	19
SOI Filed							2	2
Acc Withdrawn, Dismissed, Declined	0	0	0	0	0	0	1	0
SOI Withdrawn, Dismissed, Declined	0	4	2	1	1	1	0	0
Average Days to Discipline	606	1013	703	617	1336	234	888	507

*Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG.) DCA Performance Measure: Target 540 Days*

	FISCAL YEAR 2012 - 2013		FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		2015 - 2016 Quarter 1-4	
ATTORNEY GENERAL FINAL OUTCOME	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Probation		4	4		1	1	1	5
Surrender of License		1	1	1		1	1	1
License Denied (SOI)	1							
Suspension & Probation								1
Revocation-No Stay of Order				1	1	3	1	2
Petition for Reinstatement Denied			1					
Petition for Reconsideration Granted								1



Speech-Language Pathology and  
Audiology and Hearing Aid Dispensers Board

**2016-2020  
Action Plan**

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# Goal 1: Licensing

*The Board ensures licensing standards that protect consumers while permitting reasonable access into the professions.*

<b>1.1 Evaluate licensing and examination requirements for all disciplines to ensure fairness in the licensing processes.</b>			
Start: Q3 16/17: Jan-Mar 2017		End: Q2 17/18: Oct-Dec 2017	
Success Measure: There is data that supports or negates fairness in evaluation criteria.		Start/End	Responsibility
1.1.1	Partner with DCA OPES to conduct stakeholder examination workshops to explore the possibility of changing components of the written and practical Hearing Aid Dispensing exams.	Jan-Mar 2017	Operations Manager (OM)
1.1.2	Implement the changes for the Hearing Aid Dispensing exams (written and practical).	Jan-Mar 2017	OM
1.1.3	Update the Board website, examination guide, and other related materials.	Jan-Mar 2017	OM
1.1.4	Conduct a linkage study between the State's Hearing Aid Dispensing written exam to the IHS (International Hearing Society) written exam.	Jan-Mar 2017	OM
1.1.5	Conduct an occupational analysis specific to Audiologists.	Jan-Mar 2017	OM
1.1.6	Conduct a linkage study between the National Audiology Exam and the practical Hearing Aid Dispensing exam.	Oct-Dec 2017	OM
1.1.7	Report evaluation findings to the Board.	Oct-Dec 2017	EO & OPES

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<b>1.2 Shorten the licensing processing time (from application to issuance of the license) to better meet consumer and professional needs.</b>			
Start: Q2 15/16: Oct-Dec 2015      End: Q4 15/16: Apr-Jun 2016			
Success Measure: Licensing processing times are decreased to 30 days (50%).		Start/End	Responsibility
1.2.1	Identify licensing workflows.	Oct-Dec 2015	OM
1.2.2	Eliminate duplicative processes in application processing.	Oct-Dec 2015	OM
1.2.3	Track application processing times.	Oct-Dec 2015	OM
1.2.4	Create a database that increases the ability to track applications.	Oct-Dec 2015	OM
1.2.5	Update the application procedures posted on the Board website to provide clarified instructions and requirements about the application process.	Oct-Dec 2015	OM
1.2.6	Collaborate with CPS to conduct a workload analysis and process improvement study.	Apr-Jun 2016	OM
1.2.7	Implement staff recommendations for reducing Licensing processing timeframes.	Apr-Jun 2016	OM

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<b>1.3 Complete and submit a Budget Change Proposal (BCP) to request additional licensing positions to increase the availability of services, reduce processing times, streamline processes and meet professional demand.</b>			
Start: Q3 14/15: Jan-Mar 2015		End: Q1 16/17: Jul-Sept 2016	
Success Measure: Successfully onboard new Licensing Analyst.		Start/End	Responsibility
1.3.1	Conduct workload analysis and compile justification data to support Budget Change Proposal (BCP).	Feb 2015	EO
1.3.2	Draft BCP concept paper.	Feb 2015	EO
1.3.3	Submit BCP concept paper to DCA Budget Office.	Mar 2015	EO
1.3.4	Draft BCP and submit to DCA Budget Office.	Apr 2015	EO
1.3.5	Obtain control agencies' approval of BCP.	Mar-Apr 2016	EO
1.3.6	Obtain legislative approval for BCP.	Mar-Apr 2016	EO
1.3.7	Obtain additional Licensing position.	July 2016	EO
1.3.8	Recruitment process: Develop new duty statement and obtain DCA OHR approval.	May-Jul 2016	OM
1.3.9	Recruitment process: Advertise, review applications in ECOS, interview, and hire new Licensing Analyst.	May-Jul 2016	OM
1.3.10	Onboard and train new Licensing Analyst.	Jul 2016	Licensing Analyst

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<b>1.4 Increase the frequency and number of locations for the hearing aid dispensers examination in order to increase access for applicants and more efficiently meet consumer demand for more licensed hearing aid dispensers.</b>			
Start: Q1 15/16: Jul-Sept 2015		End: Q1 17/18: Jul-Sept 2017; ongoing	
Success Measure: Increased frequency of examination by 100% and conduct at least one in Southern California.		Start/End	Responsibility
1.4.1	Conduct outreach to recruit more audiology and hearing aid dispenser SMEs/examiners.	Jul-Sept 2015; ongoing	EO
1.4.2	Initiate and finalize contracts with the SMEs/examiners.	Jul-Sept 2015; ongoing	Licensing/ Exam Analyst
1.4.3	Train SMEs/examiners.	Jul-Sept 2015; ongoing	Licensing/ Exam Analyst
1.4.4	Recruit and hire temporary staff for administrative support and proctoring examination.	Jul-Sept 2015; ongoing	OM
1.4.5	Coordinate with senior examiners for annual examination dates to identify dates 6-8 months in advance.	Oct-Dec 2016; ongoing	OM & Licensing/ Exam Analyst
1.4.6	Update the Board's website to include notification of the examination dates.	Oct-Dec 2016; ongoing	OM
1.4.7	Identify all the requirements for a practical exam location.	Jan-Mar 2017	Licensing/ Exam Analyst
1.4.8	Research and identify potential sites in Southern California.	Jan-Mar 2017	Licensing/ Exam Analyst
1.4.9	Initiate contract with an examination site.	Jan-Mar 2017	Licensing/ Exam Analyst
1.4.10	Conduct a cost-analysis and evaluate the feasibility of using alternate sites.	Apr-Jun 2017	OM
1.4.11	Determine alternate location(s) that fit budget and examination feasibility needs.	Jul-Sept 2017	Licensing/ Exam Analyst
1.4.12	Conduct at least one examination in Southern California, per fiscal year.	Jul-Sept 2017; ongoing	Licensing/ Exam Analyst

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## Goal 2: Enforcement

*The health and safety of California's consumers is protected through the active enforcement of the laws and regulations governing the practices of speech-language pathology, audiology and hearing aid dispensers.*

### 2.1 Decrease enforcement timeframes to enhance public protection.

Start: Q2 15/16: Oct-Dec 2015

End: Q4 15/16: Apr-Jun 2016

Success Measure: Case enforcement timeframes meet CPEI performance measures.		Start/End	Responsibility
2.1.1	Enhance the Enforcement Tracker Database to track cases.	Oct-Dec 2015	OM
2.1.2	Meet with staff regularly to discuss aging cases and analyze timeframes and determine action plan for case advancement/closure.	ongoing	EO and OM
2.1.3	Meet with DOI to discuss investigation timeframes and establish communication expectations and allocation of investigative hours.	Jan-Mar 2016; ongoing	EO, OM and Enforcement Coordinator
2.1.4	Meet with AG's office to discuss aging cases and receive updates and maintain open lines of communication.	Oct-Dec 2015; ongoing	EO and Enforcement Coordinator
2.1.5	Train staff on CPEI performance measures.	Oct-Dec 2015	OM
2.1.6	Increase the use of electronic mail ballots by Board members for voting.	Jul-Sep 2015	Enforcement Coordinator
2.1.7	Enforcement coordinator provides settlement terms to DAG earlier in the formal discipline process, when applicable.	Oct-Dec 2015	Enforcement Coordinator
2.1.8	Train Board members regarding all stages of enforcement process, Disciplinary Guidelines, and their role in the adjudication of cases.	Oct-Dec 2015	EO and DAG liaison
2.1.9	Train Board members regarding the investigative stages of enforcement (DOI).	Apr-Jun 2016	EO and DOI Chief
2.1.10	Report CPEI performance measures to Board.	Quarterly, ongoing	OM

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<b>2.2 Inform interested parties regarding disciplinary actions to reduce the number of practitioner violations.</b>			
Start: Q4 15/16: Apr-Jun 2016		End: Q1 17/18: Jul-Sept 2017	
Success Measure: Increase number of interested parties and increase the awareness of the Board's enforcement.		Start/End	Responsibility
2.2.1	Add "enforcement" category to email notification list on Board website.	Apr-Jun 2017	OM
2.2.2	Utilize DCA press release for high profile disciplinary actions.	Apr-Jun 2016; ongoing	EO and EC
2.2.3	Utilize DCA social media to communicate high profile disciplinary actions.	Apr-Jun 2016; ongoing	EO and EC
2.2.4	Initiate a quarterly ListServ notification of disciplinary actions.	Jul-Sept 2017	OM
2.2.5	Raise awareness of Board's enforcement program/consumer protection through conducting outreach stakeholder meetings and enlist interested parties.	Jul-Sept 2017	EO and Board members

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<b>2.3 Implement annual Board member enforcement training to improve Board member knowledge.</b>
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See action items 2.1.8 and 2.1.9
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<b>2.4 Develop an ad-hoc Board member Enforcement Committee to discuss enforcement issues and review enforcement processes.</b>			
Start: Q4 16/17: Apr-Jun 2016		End: Q4 16/17: Apr-Jun 2016	
Success Measure: Establish Ad-Hoc Committee.		Start/End	Responsibility
2.4.1	Identify purpose of Ad-Hoc Enforcement Committee.	Apr-Jun 2016	Board Chair
2.4.2	Appoint Board members to sit on Ad-Hoc Enforcement Committee.	Apr-Jun 2016	Board Chair
2.4.3	Staff to meet annually with Ad-Hoc Enforcement Committee.	Apr-Jun 2016	Ad-Hoc Enforcement Committee and Enforcement Coordinator

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<b>2.5 Document the Board's enforcement policies and procedures to maintain an enforcement knowledge base.</b>			
Start: Q4 18/19: Apr-Jun 2019		End: Q4 18/19: Apr-Jun 2019	
Success Measure: Documented Enforcement policies and procedures.		Start/End	Responsibility
2.5.1	Identify each process that needs to be documented.	Apr-Jun 2019	Enforcement Staff
2.5.2	Identify key individuals responsible for each process to be documented.	Apr-Jun 2019	OM
2.5.3	Develop drafts of each policy and procedure.	Apr-Jun 2019	Enforcement Staff
2.5.4	Review and revise each policy and procedure to improve efficiency.	Apr-Jun 2019	Enforcement Staff
2.5.5	Update Enforcement procedures.	Apr-Jun 2019	Enforcement Staff

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<b>2.6 Assess staffing needs to determine whether staffing resources are adequate to manage current and anticipated workload.</b>			
Start: Q4 15/16 : Apr-Jun 2016      End: Q1 16/17: Jul-Sept 2016			
Success Measure: A staffing determination is made.		Start/End	Responsibility
2.6.1	Conduct workload analysis, including interviewing staff members to determine workload and resources.	Apr-Jun 2016	EO and Consultant
2.6.2	Compiled data and developed workload study documents.	Apr-Jun 2016	EO and Staff
2.6.3	Determine workload and additional resource needs, if any.	Jul-Sept 2016	EO and OM

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## Goal 3: Outreach

*Consumers and other stakeholders are educated and informed about the practices, and laws and regulations governing the professions of speech-language pathology, audiology, and hearing aid dispensing.*

<b>3.1 Require practitioners to display a consumer notice at the practitioner's point of service regarding the roles and responsibilities of the Board.</b>			
Start: Q3 18/19: Jan-Mar 2019      End: Q3 19/20: Jan-Mar 2020			
Success Measure: Law or regulation requiring consumer notice in effect.		Start/End	Responsibility
3.1.1	Research B&P code and statutory authority for requiring a consumer notice display.	Jan-Mar 2019	New Leg. Analyst
3.1.2	Identify other DCA programs with existing consumer notices.	Jan-Mar 2019	New Leg. Analyst
3.1.3	Determine if a statute change and/or regulation change is necessary.	Jan-Mar 2019	New Leg. Analyst
3.1.4	Inform Board of necessary requirements and obtain approval.	Apr-May 2019	EO
3.1.5	Obtain Board support on the proposed statutory language and/or regulation.	Apr-May 2019	EO
3.1.6	<i>Pursue either or both statute change action items and regulation action items. (See Appendix)</i>		
3.1.7	Post the effective date of the amended regulation or legislation on the Board website, if necessary.	Oct-Dec 2019	New Leg. Analyst
3.1.8	Train staff on new requirements.	Oct-Dec 2019	New Leg. Analyst
3.1.9	Educate licensees on new requirements.	Oct-Dec 2019	New Leg. Analyst /Board and Associations

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<b>3.2 Expand internet communication to encourage bi-directional communication to actively engage consumers, licensees and other stakeholders.</b>			
Start: Q1 18/19: Jul-Sept 2018      End: Q2 19/20: Oct-Dec 2019			
Success Measure: Increased Board communication.		Start/End	Responsibility
3.2.1	Utilize DCA social media to communicate Board updates.	Jul-Sept 2018	Staff Analyst & OPA
3.2.2	Expand the topics covered by ListServ notifications that provide Board updates.	Oct-Dec 2018	OM
3.2.3	Collaborate with DCA OPA to create a YouTube video tutorial for required professional experience applicants about the licensing process.	Oct-Dec 2019	Licensing Staff & OPA
3.2.4	Raise awareness of Board's presence and enlist interested parties at outreach events attended by Board Members and staff.	Ongoing	Board Members and Staff

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<b>3.3 Encourage stakeholder participation at Board meetings to obtain feedback, increase transparency and education of stakeholders.</b>			
Start: Q4 16/17: Apr-Jun 2017		End: Q2 18/19: Oct-Dec 2018	
Success Measure: Increased participation by stakeholders at Board meetings.		Start/End	Responsibility
3.3.1	Hold Board meetings at universities that house speech-language pathology and audiology programs.	Apr-Jun 2017	Board Members and EO
3.3.2	Increase use of social media and ListServ updates (See 3.2) to advertise Board meetings.	Apr-Jun 2017	OM
3.3.3	Contact professional associations to encourage member attendance at board meetings.	Oct-Dec 2018	EO

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<b>3.4 Complete and submit a BCP to request an additional outreach position to educate consumers, licensees, university faculty and staff, along with other stakeholders about the practices, laws, and regulations governing Board professions.</b>			
Start: Q3 17/18: Jan-Mar 2018      End: Q1 19/20: Jul-Sept 2019			
Success Measure: Outreach Analyst is filled and onboarded.		Start/End	Responsibility
3.4.1	Conduct workload analysis and compile justification data to support Budget Change Proposal (BCP).	Jan-Mar 2018	EO or new Analyst
3.4.2	Draft and Submit BCP concept paper to DCA Budget Office.	Apr-Jun 2018	EO or new Analyst
3.4.3	Draft BCP and submit to DCA Budget Office.	Apr-Jun 2018	EO or new Analyst
3.4.4	Obtain control agencies' approval of BCP.	Jul-Sept 2018	EO or new Analyst
3.4.5	Obtain legislative approval for BCP.	Jul-Sept 2018	EO or new Analyst
3.4.6	Obtain additional outreach position.	Oct-Dec 2018	EO or new Analyst
3.4.7	Establish communication and outreach priorities.	Apr-Jun 2019	EO and OM
3.4.8	Recruitment process: Develop new duty statement and obtain DCA OHR approval.	Apr-Jun 2019	OM
3.4.9	Recruitment process: advertise, Review applications in ECOS, interview, and hire Outreach Analyst.	Apr-Jun 2019	OM
3.4.10	Onboard and train Outreach Analyst.	Jul-Sept 2019	OM

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### 3.5 Develop presentation materials for Board member use to cost-effectively disseminate information to consumers, licensees and students.

Start: Q1 19/20: Jul-Sept 2019      End: Q4 19/20: Apr-Jun 2020

Success Measure: Increase Board Member presentations by 100%.		Start/End	Responsibility
3.5.1	Determine what messages to disseminate to consumers, licensees and students (i.e. How to apply for a license, hearing aid consumer protection, how to file a complaint, etc.).	Jul-Sept 2019	Outreach Analyst
3.5.2	Develop draft materials (to include PPT and printed materials).	Jan-Mar 2020	Outreach Analyst
3.5.3	Test materials to ensure accuracy and ease of use.	Jan-Mar 2020	Outreach Analyst and EO
3.5.4	EO and Board Member/Committee approval.	Jan-Mar 2020	EO and Board
3.5.5	Develop a feedback survey on content effectiveness.	Apr-Jun 2020	Outreach Analyst
3.5.6	Make materials available to Board Members.	Apr-Jun 2020	Outreach Analyst
3.5.7	Annual review and update as needed.	ongoing	Outreach Analyst, OM, and EO

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## Goal 4: Laws and Regulations

*The health and safety of California consumers is protected by the laws and regulations governing the speech-language pathology, audiology and hearing aid dispensing professions.*

<b>4.1 Update Continuing Education (CE) requirements to facilitate the license renewal process and improve ease of auditing.</b>			
Start: Q1 18/19: Jul-Sept 2018      End: Q2 19/20: Oct-Dec 2019			
Success Measure: Improved renewal process and increased auditing.		Start/End	Responsibility
4.1.1	Hold meetings with affected stakeholders to solicit input on regulation development.	Jul-Sept 2018	New Leg. Analyst
4.1.2	Draft modified regulatory language to facilitate the license renewal process and improve the ease of auditing.	Jul-Sept 2018	New Leg. Analyst
4.1.3	Obtain Board approval of the regulatory language.	Oct-Dec 2018	EO
4.1.4	Create regulations packet including initial statement of reason, strikeout text and notice.	Oct-Dec 2018	New Leg. Analyst
4.1.5	Submit regulation package to the Office of Administrative Law.	Oct-Dec 2018	New Leg. Analyst
4.1.6	Conduct open comment period and hold public comment hearing if necessary.	Jan-Mar 2019	New Leg. Analyst, EO and Board
4.1.7	Obtain regulation approval by Office of Administrative Law.	Jul-Sept 2019	New Leg. Analyst
4.1.8	Make necessary changes to the licensing and enforcement system and to other internal processes to accommodate the regulatory changes.	Jul-Sept 2019	New Leg. Analyst
4.1.9	Train staff on new requirements.	Oct-Dec 2019	New Leg. Analyst
4.1.10	Educate licensees on new requirements.	Oct-Dec 2019	New Outreach Analyst

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#### 4.2 Complete and submit a BCP for a legislative analyst position to address the backlog of regulatory packages.

Start: Q3 15/16: Jan-Mar 2016      End: Q1 17/18: Jul-Sept 2017

Success Measure: Improved renewal process and increased auditing.		Start/End	Responsibility
4.2.1	Conduct workload analysis and compile justification data to support Budget Change Proposal (BCP).	Jan-Mar 2016	EO
4.2.2	Draft and Submit BCP concept paper to DCA Budget Office.	Apr-May 2016	EO
4.2.3	Draft BCP and submit to DCA Budget Office.	Apr-May 2016	EO
4.2.4	Obtain control agencies' approval of BCP.	Jul-Sept 2016	EO
4.2.5	Obtain legislative approval for BCP.	Jul-Sept 2016	EO
4.2.6	Obtain additional legislative analyst position.	Oct-Dec 2016	EO
4.2.7	Establish legislative and regulatory priorities.	Jan-Feb 2017	EO and OM
4.2.8	Recruitment process: Develop new duty statement and obtain DCA OHR approval.	Apr-Jun 2017	OM
4.2.9	Recruitment process: Advertise, review applications in ECOS, interview, and hire Legislative Analyst.	Apr-Jun 2017	OM
4.2.10	Onboard and train Legislative Analyst.	Jul-Sept 2017	OM

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**4.3 Develop a Board member Laws and Regulations Committee to prioritize regulations and facilitate legislative analysis at Board meetings.**

Start: Q2 16/17: Oct-Dec 2016      End: Q2 16/17: Oct-Dec 2016

Success Measure: Prioritize rule making and improve legislative analysis.		Start/End	Responsibility
4.3.1	Board Chair to establish a committee and appoint Committee Chair.	Oct-Dec 2016	Board Chair
4.3.2	Board to establish priorities for committee.	Oct-Dec 2016	Board
4.3.3	Establish a meeting calendar for committee.	Oct-Dec 2016	Committee, and Analyst
4.3.4	Committee to provide update to Board at meetings.	Oct-Dec 2016	Committee Chair

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**4.4 Advocate for additional university programs graduating Audiologists and ~~Speech Language Pathologists (SLPs)~~<sup>1</sup> to address the shortage of professionals in California in the interest of consumer access protection.**

Start: Q2 15/16: Oct-Dec 2015

End: Q2 16/17: Oct-Dec 2016

Success Measure: Law is in place allowing audiology doctoral CSU programs.		Start/End	Responsibility
4.4.1	Discuss shortage with associations and Board Members.	Oct-Dec 2015	Audiology committee
4.4.2	Hold meetings with affected stakeholders to solicit input on proposed legislation.	Oct-Dec 2015	Audiology committee and EO
4.4.3	Draft new legislative language to allow additional university programs graduating Audiologists.	Jan-Mar 2016	Stakeholders/Associations
4.4.4	Obtain Board approval of proposed legislation language.	Jan-Mar 2016	EO
4.4.5	Obtain author and introduce legislation.	Jan-Mar 2016	Stakeholders/Associations
4.4.6	Obtain legislative approval.	Oct-Dec 2016	Board

<sup>1</sup> **Strikeout text is a modification made my Board EO and OM.**

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<b>4.5 Finalize existing regulation packages and proposals so that Board regulations remain current.</b>			
Start: Q2 16/17: Jan-Mar 2016		End: Q4 19/20: Apr-Jun 2020	
Success Measure: Regulation backlog resolved.		Start/End	Responsibility
4.5.1	See objective 4.2 to address staffing shortage	Start: Jan-Mar 2016 End: Jul-Sept 2017	New Leg. Analyst
Existing Regulation Packages Currently Being Worked On:			
1	Disciplinary guidelines and uniform standards.	Apr-Jun 2017; TBD	New Leg. Analyst
2	Fee increase for Speech-Language Pathology and Audiology.	Apr-Jun 2017	New Leg. Analyst
3	Hearing aid dispenser advertising guidelines.	Apr-Jun 2017	New Leg. Analyst
4	Speech-Language Pathology and Audiology CE/self-study.	TBD	New Leg. Analyst
5	Hearing aid dispenser CE/self-study.	TBD	New Leg. Analyst
6	Speech-Language Pathology Assistant /SLP clock hours.	TBD	New Leg. Analyst
7	Hearing aid dispenser fees (exams).	TBD	New Leg. Analyst

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<b>4.6 Educate legislators on the importance of requiring SLPs and Audiologists who provide service in public schools to be licensed in order to improve consumer protection.</b>			
Start: Q4 18/19: Apr-Jun 2019      End: Q4 19/20: Apr-Jun 2020			
Success Measure: Progress made to require licensed SLPs in public schools.		Start/End	Responsibility
4.6.1	Identify the scope of credentialed, unlicensed SLPs working in public schools. <sup>2</sup>	Apr-Jun 2019	New Leg. Analyst
4.6.2	Discuss options with Board on next steps.	Apr-Jun 2019	New Leg. Analyst
4.6.3	Research options and present to Board for further direction.	Apr-Jun 2019	New Leg. Analyst
4.6.4	Determine whether statutory changes are necessary.	Jul-Sept 2019	New Leg. Analyst
4.6.5	Meet with professional association's legislative contacts to conduct outreach to report findings and discuss possible solutions.	Oct-Dec 2019	EO and New Leg. Analyst
4.6.6	Collaborate with Board Members to conduct outreach to report findings to legislature and their staff.	Apr-Jun 2020	EO and New Leg. Analyst

<sup>2</sup> Research Commission on Teacher Credentialing requirements for audiologists

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**4.7 Develop regulations regarding the appropriate level of supervision for trainees, aides, and assistants (for all license types)<sup>3</sup> to safeguard consumer protection and seek statutory changes if necessary.**

Start: Q3 17/18: Jan-Mar 2018		End: Q4 18/19: Apr-Jun 2019	
Success Measure: Regulations in place for supervision in regards to trainees, aides, and assistants.		Start/End	Responsibility
4.7.1	Hold meetings with affected stakeholders to solicit input on regulation development.	Jan-Mar 2018	New Leg. Analyst
4.7.2	Draft modified regulatory language to identify the appropriate levels of supervision for trainees, aides, and assistants.	Jan-Mar 2018	New Leg. Analyst
4.7.3	Obtain Board approval of the regulatory language.	Apr-Jun 2018	EO
4.7.4	Create regulations packet including initial statement of reason, strikeout text and notice.	Apr-Jun 2018	New Leg. Analyst
4.7.5	Submit regulation package to the Office of Administrative Law.	Apr-Jun 2018	New Leg. Analyst
4.7.6	Conduct open comment period and hold public comment hearing if necessary.	Jul-Sept 2018	New Leg. Analyst, EO and Board
4.7.7	Obtain regulation approval by Office of Administrative Law.	Jan-Mar 2019	New Leg. Analyst
4.7.8	Make necessary changes to the licensing and enforcement system and to other internal processes to accommodate the regulatory changes.	Jan-Mar 2019	New Leg. Analyst
4.7.9	Train staff on new requirements.	Apr-Jun 2019	New Leg. Analyst
4.7.10	Educate licensees and registrants on new requirements.	Apr-Jun 2019	New Outreach Analyst

<sup>3</sup> Text added in action planning session by EO and OM.

<b>4.8 Review <u>hearing aid dispenser</u><sup>4</sup> examination regulations and make necessary changes to increase clarity for applicants and stakeholders.</b>			
Start: Q1 17/18: Jul-Sept 2017      End: Q2 18/19: Oct-Dec 2018			
Success Measure: Simple and clear hearing aid dispenser examination requirements.		Start/End	Responsibility
4.8.1	Hold meetings with affected stakeholders to solicit input on regulation development.	Jul-Sept 2017	New Leg. Analyst
4.8.2	Draft modified regulatory language to identify the appropriate exam requirements for hearing aid dispensers.	Jul-Sept 2017	New Leg. Analyst
4.8.3	Obtain Board approval of the regulatory language.	Oct-Dec 2017	EO
4.8.4	Create regulations packet including initial statement of reason, strikeout text and notice.	Oct-Dec 2017	New Leg. Analyst
4.8.5	Submit regulation package to the Office of Administrative Law.	Oct-Dec 2017	New Leg. Analyst
4.8.6	Conduct open comment period and hold public comment hearing if necessary.	Jan-Mar 2018	New Leg. Analyst, EO and Board
4.8.7	Obtain regulation approval by Office of Administrative Law.	Jul-Sept 2018	New Leg. Analyst
4.8.8	Make necessary changes to the internal processes to accommodate the regulatory changes.	Jul-Sept 2018	New Leg. Analyst
4.8.9	Train staff on new requirements.	Oct-Dec 2018	New Leg. Analyst
4.8.10	Educate licensees and applicants on new requirements.	Oct-Dec 2018	New Outreach Analyst

<sup>4</sup> Text added in action planning session by EO and OM.

Legend for Responsibility Column: CPS – Public Sector HR Consulting Firm | DAG – Deputy Attorney General | DOI – Division of Investigations | EC – Enforcement Coordinator | EO – Executive Officer | OM – Operations Manager | OPA – Office of Public Affairs | OPES – Office of Professional Examination Services |

<b>4.9 Seek statutory authority to require hearing aid dispenser applicants to complete a traineeship under a licensed hearing aid dispenser in order to become eligible to take the practical exam in the interest of consumer protection.</b>			
Start: Q2 16/17: Oct-Dec 2016 End: Q4 19/20: Apr-Jun 2020			
Success Measure: Law in place requiring hearing aid dispenser applicants to complete a traineeship as an examination requirement.		Start/End	Responsibility
4.9.1	Facilitate a discussion with hearing aid dispensers committee and stakeholders.	Oct-Dec 2016	EO and OM
4.9.2	Solicit input from stakeholders on proposal.	Oct-Dec 2016	Committee
4.9.3	Draft new legislative language to require hearing aid dispenser applicants to complete a traineeship.	Jan-Mar 2017	Committee
4.9.4	Obtain Board approval of proposed legislation language.	Jan-Mar 2017	Committee
4.9.5	Obtain author and introduce legislation.	Apr-Jun 2017	Committee
4.9.6	Obtain legislative approval.	July-Sept 2017	Committee
4.9.7	Make necessary changes to the enforcement and licensing systems and to internal processes to accommodate the regulatory changes.	Oct-Dec 2017	Lic. Analyst & OM
4.9.8	Train staff on new requirements.	Oct-Dec 2017	Lic. Analyst & OM
4.9.9	Educate licensees on new requirements.	Oct-Dec 2017	Lic. Analyst & OM, Associations

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<b>4.10 Monitor federal regulation request for exemptions for online hearing aid sales in California to protect consumers and to improve clarity for licensees.</b>			
Start: Q2 16/17: Oct-Dec 2016      End: TBD			
Success Measure: Provide updates to Board on a regular basis.		Start/End	Responsibility
4.10.1	This objective needs further Board discussion based on North Carolina dental examiners case.	Oct-Dec 2016	TBD

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## Goal 5: Program Administration

*The Board efficiently and effectively utilizes resources and personnel to meet our goals and objectives.*

<b>5.1 Increase capacity for Board and Committee deliberations and progress in order to more effectively address a greater number of Board-related issues in a timely manner.</b>			
Start: Q1 16/17: Jul-Sept 2016		End: Q2 16/17: Oct-Dec 2016	
Success Measure: Implemented and enhanced board meeting structure that more efficiently addresses board related issues.		Start/End	Responsibility
5.1.1	Discuss with Board the restructure of Board meetings and committees (i.e. typical DCA board meeting model, and standing committees vs. ad-hoc committees )	Jul-Sept 2016	EO
5.1.2	Establish standing committees (to match strategic plan or DCA board model). Board chair to appoint committee members.	Oct-Dec 2016	Board Chair
5.1.3	Restructure Board meeting agendas to follow new model.	Oct-Dec 2016; ongoing	Board Chair and Staff
5.1.4	Implement and hold standing committee meetings on a regular basis (not limited to full board meeting).	Oct-Dec 2016; ongoing	Board Members

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<b>5.2 Address-Determine staffing needs to address <del>determine</del> whether resources are adequate to manage current and anticipated workload.</b>			
Start: Q4:15/16: Apr-Jun 2016		End: Q1 17/18: Jul 2017	
Success Measure: Adequately staff board operations.		Start/End	Responsibility
5.2.1	Conduct workload analysis, including interviewing staff members to determine workload and resources.	Apr-Jun 2016	EO and Consultant
5.2.2	Compiled data and developed workload study documents.	Apr-Jun 2016	EO and Staff
5.2.3	Determine workload and additional resource needs, if any.	Jul-Sept 2016	EO and OM
5.2.4	Share report findings with the Board.	Jul-Sept 2016	EO and OM
5.2.5	Develop concept proposals to adequately staff Board.	Apr-Jun 2016	EO and OM
5.2.6	Conduct workload analysis and compile justification data to support Budget Change Proposal (BCP).	Feb 2016	EO
5.2.7	Draft BCP concept paper.	Feb 2016	EO
5.2.8	Submit BCP concept paper to DCA Budget Office.	Mar 2016	EO
5.2.9	Draft BCP and submit to DCA Budget Office.	Apr 2016	EO
5.2.10	Obtain control agencies' approval of BCP.	Mar-Apr 2017	EO
5.2.11	Obtain legislative approval for BCP.	Mar-Apr 2017	EO
5.2.12	Obtain additional, necessary position(s).	Jul 2017	EO
5.2.13	Recruitment process: Develop new duty statement and obtain DCA OHR approval.	May-Jul 2017	OM
5.2.14	Recruitment process: advertise, Review applications in ECOS, interview, and hire new position(s).	May-Jul 2017	OM
5.2.15	Onboard and train new staff member(s).	Jul 2017	Licensing Analyst

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<b>5.3 Create, improve, and document all Board policies and procedures to streamline processes and maximize efficiency.</b>			
Start: Q3 17/18: Jan-Mar 2018      End: Q4 17/18: Apr-Jun 2018			
Success Measure: Streamline, documented processes and increased efficiency.		Start/End	Responsibility
5.3.1	Identify each process that needs to be mapped.	Jan-Mar 2018	OM
5.3.2	Identify key individuals responsible for each process to be mapped.	Jan-Mar 2018	OM
5.3.3	Develop draft process maps.	Jan-Mar 2018	OM
5.3.4	Review and revise process maps.	Apr-Jun 2018	OM
5.3.5	Review each process to improve efficiency.	Apr-Jun 2018	OM
5.3.6	Test process maps.	Apr-Jun 2018	OM
5.3.7	Approve process maps.	Apr-Jun 2018	OM
5.3.8	Update desk procedure manuals based on new processes and maps.	Apr-Jun 2018	OM
5.3.9	Train staff on new processes.	Apr-Jun 2018	OM
5.3.10	Implement new processes.	Apr-Jun 2018	OM
5.3.11	Review and refine new processes within six months of introduction.	Apr-Jun 2018	OM
5.3.12	Review and updated processes annually.	Apr-Jun 2018	OM

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<b>5.4 Implement training for staff, Board members, subject matter experts (SMEs), and expert witnesses to maintain consistent communication and practices.</b>			
Start: Q1 19/20: Jul-Sept 2019		End: Q3 19/20: Jan-Mar 2020	
Success Measure: Increased knowledge base of staff.		Start/End	Responsibility
5.4.1	Develop content for a core training on Board's mission, and function.	Jul-Sept 2019	Leg /Outreach Analyst
5.4.2	Partner with SOLID Training to develop a webinar for content.	Oct-Dec 2019	Leg /Outreach Analyst
5.4.3	Identify individual training needs of the following groups: staff, Board members, subject matter experts (SMEs), and expert witnesses.	Oct-Dec 2019	Leg /Outreach Analyst
5.4.4	Partner with DCA's SOLID Planning to facilitate training for staff (i.e. internal or external trainings).	Oct-Dec 2019	Leg /Outreach Analyst
5.4.5	Research and identify resources for expanding training on the disciplinary process for Board Members.	Oct-Dec 2019	Leg /Outreach Analyst
5.4.6	Implement training for board members.	Jan-Mar 2020	Leg /Outreach Analyst
5.4.7	Review and enhance current training for SMEs (examination development/examiners).	Jan-Mar 2020	Leg /Outreach Analyst
5.4.8	Research and identify resources for expanding training on the role of being an expert witness for review of enforcement cases.	Jan-Mar 2020	Leg /Outreach Analyst
5.4.9	Develop and implement training for expert witness review of enforcement cases.	Jan-Mar 2020	Leg /Outreach Analyst
5.4.10	Develop pre and post assessments for trainings offered.	Jan-Mar 2020	Leg /Outreach Analyst
5.4.11	Implement training assessments.	Jan-Mar 2020	Leg /Outreach Analyst

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**5.5 Map existing Board processes in accordance with DCA release schedule to prepare for the BreEZe implementation.**

See 5.3 BreEZe implementation has been delayed.



<b>5.6 Identify Board processes that can be conducted electronically in order to increase staff efficiency and stakeholder satisfaction.</b>			
Start: Q3 14/15: Jan 2015		End: Q1 16/17: Jul 2016	
Success Measure: Identified and explored processes that could be converted.		Start/End	Responsibility
5.6.1	Identify those processes that could be converted to electronic format.	Jan 2015	EO
5.6.2	Meet with IT staff to explore feasibility of electronic processes in interim for BreEZe implementation.	Jan 2015	EO
5.6.3	Revisit request with IT staff regarding electronic processes.	Jul 2016	EO

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<b>5.7 Monitor and protect the Board's fund condition at the appropriate level to maintain the Board's fiscal needs.</b>			
Start: Q4 14/15: Apr-Jun 2015		End: Q4 14/15: Apr-Jun 2015	
Success Measure: Regulation promulgated and fees increases are implemented.		Start/End	Responsibility
5.7.1	Analyze budget, fund condition, projections, etc.	Apr-Jun 2015	EO, OM, DCA Budgets
5.7.2	Research existing statutes and regulations to determine whether fee ceilings or fees could be increased.	Apr-Jun 2015	EO
5.7.3	Work with DCA Budget Office to identify fiscal analysis and impact to the Board fund.	Apr-Jun 2015	EO and Budget Office
5.7.4	Discuss the need for fee increases, if necessary, with the Board.	Apr-Jun 2015	EO and Budget Office
5.7.5	Draft proposal for fee increase.	Apr-Jun 2015	EO and Budget Office
5.7.6	Present to the Board and obtain approval for the fee increase via regulatory process.	Apr-Jun 2015	EO and Budget Office
See appendix for rule-making process			

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# Appendix

## Action Items for Legislative Objectives

	Action Item	Additional Information
1	Hold meetings with affected stakeholders to solicit input on proposed legislation.	This is not a required step but may be a good idea if the program is not exactly sure what they are trying to do (i.e. scope of practice changes).
2	Draft new (or modified) legislative language to <i>[intent of legislative change]</i> .	
3	Obtain Board approval of proposed legislation language.	
4	Obtain author and introduce legislation.	All bills must be introduced between January 15 and February 21.
5	Obtain legislative approval.	This step includes all committee hearings, floor votes, and governor signature (or 2/3 majority vote if vetoed). If the bill does not move far enough in an odd numbered year, it may be carried over to the even numbered year. So the timeframe will be 1 or 2 years.
	Make necessary changes to the BreEZe system and to internal processes to accommodate the regulatory changes.	
	Train staff on new requirements.	
	Educate licensees on new requirements.	

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## Action Items for Regulation Packages

	Action Item	Additional Information
1	Hold meetings with affected stakeholders to solicit input on regulation development.	This is not a required step but you may want to suggest it as it can help keep to the 1 year time-frame for regulations approval.
2	Draft new (or modified) regulatory language to <i>[intent of regulations]</i> .	
3	Create regulations packet including initial statement of reason, strikeout text and notice.	
4	Obtain Board approval of regulations packet.	
5	Submit regulation package to the Office of Administrative Law.	Once submitted to OAL, all revisions to the regulations packet must be made within 1 year, or else the process must start over.
6	Conduct public comment hearing(s) or hold open comment period.	It is not required to have a hearing, but for contentious issues it is a good idea. Otherwise, people can submit written comments and the program must respond.
7	Obtain regulation approval by Office of Administrative Law.	OAL will provide their own feedback to the program if they see that these regulations are duplicative or do not support the cited statutory authority. They will also give advice on wording.
8	Make necessary changes to the BreEZe system and to internal processes to accommodate the regulatory changes.	
9	Train staff on new requirements.	
10	Educate licensees on new requirements.	

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# Memorandum

**To:** Boards Subject to Sunset Oversight Review by the Legislature in 2016-2017

**From:** Senate Committee on Business, Professions and Economic Development

**Date:** July 8, 2016

**Subject:** Request for Information and Issues to be Addressed for 2016-2017 Sunset Oversight Review

This is to inform you that Sunset Oversight Review will begin in the Fall of 2016. The comprehensive process allows the Legislature to review the laws and regulations pertaining to a board and evaluate its programs and policies; determine whether the board operates and enforces its regulatory responsibilities and is carrying out its statutory duties; and examine fiscal management practices and financial relationships with other agencies. Through Sunset Oversight Review, boards are also evaluated on key performance measures and targets related to the timeliness of action, enforcement and other necessary efforts to serve the needs of California consumers while promoting regulatory efficiency and effectiveness.

Each entity within the DCA (boards, bureaus, programs, commissions, committees) is subject to Sunset Oversight Review at least once every four years, and more often as needed. The following are subject to Sunset Oversight Review for 2016-2017:

Board of Chiropractic Examiners  
State Board of Guide Dogs for the Blind  
Medical Board of California  
California Board of Occupational Therapy  
State Board of Optometry  
Osteopathic Medical Board of California  
Naturopathic Medicine Committee  
Physical Therapy Board of California  
Respiratory Care Board of California

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

\*Board of Registered Nursing (two-year extension pursuant to SB 466 [Hill, Chapter 489, Statutes of 2015]; separate oversight report form provided)

\*Board of Vocational Nursing and Psychiatric Technicians (two-year extension pursuant to AB 179 [Bonilla, Chapter 510, Statutes of 2015; separate oversight report form to be provided])

Attached to this email is the "BPED Oversight Report Form" (Report) that should be completed by **December 1, 2016**. This Report provides a snapshot and substantive



information about who the board is, who the board licenses, and how the board performs its regulatory functions.

The first sections of the Report provide an overview of the board's current regulatory program, and contain pre-formatted tables and charts to be completed by the board. The latter sections focus on responses by the board to particular issues raised by the individual board or raised during prior Sunset Oversight Review.

Please respond to all questions in the Report, including the tables, charts and appropriate statistical information for the fiscal years indicated. In the event that some information may not pertain to your particular board, please note it on your response, but be sure to include information that is relevant to your activities and programs.

In completing your Report, please note the following:

Section 10 – Board Action and Response to Prior Sunset Issues. This should reflect the board's response to each individual issue and recommendation that was raised during the prior Sunset Oversight Review.

Section 11 – New Issues. This is the board's opportunity to raise new issues and make recommendations. These can reflect statutory or regulatory changes, administrative improvements and efforts or respond to issues impacting the practice or board. The Sunset Oversight Review process allows the board to work collaboratively with the Legislature on all issues impacting the board and profession(s).

Along with the Report Form, you are also being sent a *Guide for Completing Tables in the Oversight Review Questionnaire*. Most of the tables may be completed from data in standard reports that the board already receives. If your board does not use the Department of Consumer Affairs' report and data processes, please report information using the definitions given in the Guide.

Please plan to submit 4 hard copies of the board's final Report. Please also plan to submit an electronic copy (you may submit a PDF version, but we also request a Microsoft Word copy).

Your Report serves as the basis for the Background Paper staff will prepare. Recommendations in the Background Paper may include necessary statutory changes, necessary regulatory changes, administrative and operational changes, budget changes and other reforms.

We will announce the dates for the Sunset Oversight Review hearings in early 2017. Once the hearing dates are set, we request that the board notify its interested parties list of organizations, groups or individuals regarding these public hearings.

If you have any questions about the attached documents or the Sunset Oversight Review process, please contact Sarah Mason of the Senate Committee on Business, Professions and Economic Development at (916) 651-4104.

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**Sarah Mason**

Consultant

Senate Committee on Business, Professions and Economic Development

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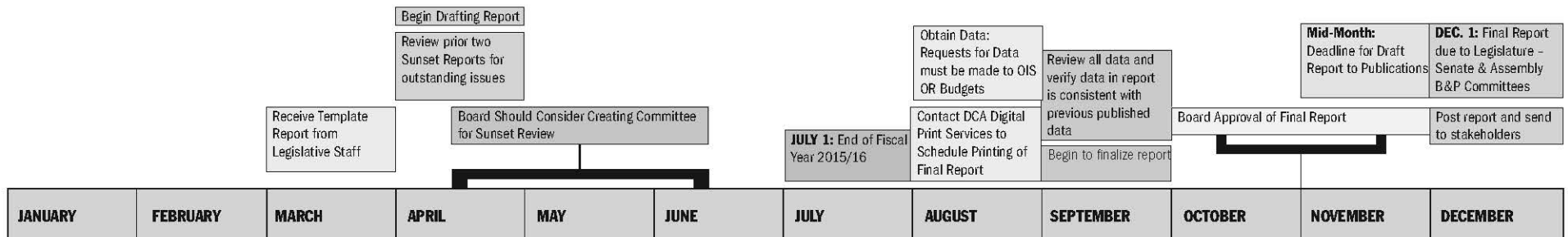
[sarah.mason@sen.ca.gov](mailto:sarah.mason@sen.ca.gov)



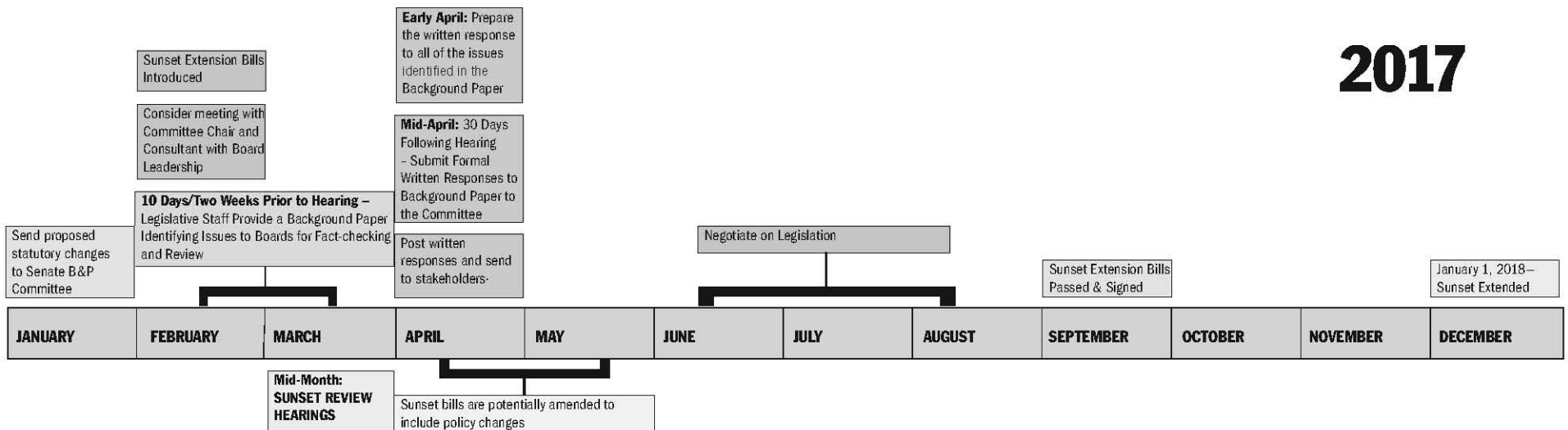


# DCA SUNSET REVIEW PROCESS

## 2016



## 2017





# [BOARD NAME]

## BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

### As of [date]

#### Section 1 – Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the board.<sup>1</sup> Describe the occupations/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).

**Table 1a. Attendance**

[Enter board member name]			
Date Appointed:		[Enter date appointed]	
Meeting Type	Meeting Date	Meeting Location	Attended?
Meeting 1	[Enter Date]	[Enter Location]	[Y/N]
Meeting 2	[Enter Date]	[Enter Location]	[Y/N]
Meeting 3	[Enter Date]	[Enter Location]	[Y/N]
Meeting 4	[Enter Date]	[Enter Location]	[Y/N]

**Table 1b. Board/Committee Member Roster**

Member Name (Include Vacancies)	Date First Appointed	Date Re- appointed	Date Term Expires	Appointing Authority	Type (public or professional)

2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?
3. Describe any major changes to the board since the last Sunset Review, including, but not limited to:
  - Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

<sup>1</sup> The term "board" in this document refers to a board, bureau, commission, committee, department, division, program, or agency, as applicable. Please change the term "board" throughout this document to appropriately refer to the entity being reviewed.



- All legislation sponsored by the board and affecting the board since the last sunset review.
  - All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.
4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).
  5. List the status of all national associations to which the board belongs.
    - Does the board's membership include voting privileges?
    - List committees, workshops, working groups, task forces, etc., on which board participates.
    - How many meetings did board representative(s) attend? When and where?
    - If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

## Section 2 – Performance Measures and Customer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report for the board as published on the DCA website
7. Provide results for each question in the board's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

## Section 3 – Fiscal and Staff

### Fiscal Issues

8. Is the board's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.
9. Describe the board's current reserve level, spending, and if a statutory reserve level exists.
10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.

**Table 2. Fund Condition**

(Dollars in Thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Beginning Balance						
Revenues and Transfers						
<b>Total Revenue</b>	\$	\$	\$	\$	\$	\$
Budget Authority						
Expenditures						
Loans to General Fund						
Accrued Interest, Loans to General Fund						
Loans Repaid From General Fund						

<b>Fund Balance</b>	\$	\$	\$	\$	\$	\$
<b>Months in Reserve</b>						

11. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?
12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

<b>Table 3. Expenditures by Program Component</b>								(list dollars in thousands)
	FY 2012/13		FY 2013/14		FY 2014/15		FY 2015/16	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement								
Examination								
Licensing								
Administration *								
DCA Pro Rata								
Diversion (if applicable)								
<b>TOTALS</b>	\$	\$	\$	\$	\$	\$	\$	\$
*Administration includes costs for executive staff, board, administrative support, and fiscal services.								

13. Describe the amount the board has contributed to the BreEZe program. What are the anticipated BreEZe costs the board has received from DCA?
14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Table 4. Fee Schedule and Revenue							
(list revenue dollars in thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2012/13 Revenue	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	% of Total Revenue

15. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

<b>Table 5. Budget Change Proposals (BCPs)</b>				
BCP ID #	Fiscal	Description of	Personnel Services	OE&E



	Year	Purpose of BCP	# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved

## Staffing Issues

16. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.
17. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).

## Section 4 – Licensing Program

18. What are the board's performance targets/expectations for its licensing<sup>2</sup> program? Is the board meeting those expectations? If not, what is the board doing to improve performance?
19. Describe any increase or decrease in the board's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?
20. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

**Table 6. Licensee Population**

		FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				
	Out-of-Country				
	Delinquent				
[Enter License Type]	Active				
	Out-of-State				

<sup>2</sup> The term "license" in this document includes a license certificate or registration.



	Out-of-Country				
	Delinquent				

**Table 7a. Licensing Data by Type**

Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
					Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2013/14	(Exam)				-	-	-	-	-	-
	(License)				-	-	-	-	-	-
	(Renewal)		n/a		-	-	-	-	-	-
FY 2014/15	(Exam)									
	(License)									
	(Renewal)		n/a							
FY 2015/16	(Exam)									
	(License)									
	(Renewal)		n/a							

\* Optional. List if tracked by the board.

**Table 7b. Total Licensing Data**

	FY 2013/14	FY 2014/15	FY 2015/16
<b>Initial Licensing Data:</b>			
Initial License/Initial Exam Applications Received			
Initial License/Initial Exam Applications Approved			
Initial License/Initial Exam Applications Closed			
License Issued			
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)			
Pending Applications (outside of board control)*			
Pending Applications (within the board control)*			
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete)			
Average Days to Application Approval (incomplete applications)*			
Average Days to Application Approval (complete applications)*			
<b>License Renewal Data:</b>			
License Renewed			

\* Optional. List if tracked by the board.

21. How does the board verify information provided by the applicant?
- What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?
  - Does the board fingerprint all applicants?
  - Have all current licensees been fingerprinted? If not, explain.
  - Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?
  - Does the board require primary source documentation?
22. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.
23. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.
- Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?
  - How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?
  - What regulatory changes has the board made to bring it into conformance with BPC § 35?
  - How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?
  - How many applications has the board expedited pursuant to BPC § 115.5?
24. Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

## Examinations

Table 8. Examination Data				
California Examination (include multiple language) if any:				
License Type				
Exam Title				
FY 2012/13	# of 1 <sup>st</sup> Time Candidates			
	Pass %			
FY 2013/14	# of 1 <sup>st</sup> Time Candidates			
	Pass %			
FY 2014/15	# of 1 <sup>st</sup> Time Candidates			
	Pass %			
FY 2015/16	# of 1 <sup>st</sup> time Candidates			
	Pass %			
Date of Last OA				
Name of OA Developer				



Target OA Date			
<b>National Examination (include multiple language) if any:</b>			
License Type			
Exam Title			
FY 2012/13	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2013/14	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2014/15	# of 1 <sup>st</sup> Time Candidates		
	Pass %		
FY 2015/16	# of 1 <sup>st</sup> time Candidates		
	Pass %		
Date of Last OA			
Name of OA Developer			
Target OA Date			

25. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?
26. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?
27. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?
28. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

### School approvals

29. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?
30. How many schools are approved by the board? How often are approved schools reviewed? Can the board remove its approval of a school?
31. What are the board's legal requirements regarding approval of international schools?

### Continuing Education/Competency Requirements

32. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.
- How does the board verify CE or other competency requirements?
  - Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.
  - What are consequences for failing a CE audit?
  - How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?



- e. What is the board's course approval policy?
- f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?
- g. How many applications for CE providers and CE courses were received? How many were approved?
- h. Does the board audit CE providers? If so, describe the board's policy and process.
- i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.

## Section 5 – Enforcement Program

33. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?
34. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

Table 9a. Enforcement Statistics			
	FY 2013/14	FY 2014/15	FY 2015/16
<b>COMPLAINT</b>			
Intake			
Received			
Closed			
Referred to INV			
Average Time to Close			
Pending (close of FY)			
Source of Complaint			
Public			
Licensee/Professional Groups			
Governmental Agencies			
Other			
Conviction / Arrest			
CONV Received			
CONV Closed			
Average Time to Close			
CONV Pending (close of FY)			
<b>LICENSE DENIAL</b>			
License Applications Denied			
SOIs Filed			
SOIs Withdrawn			
SOIs Dismissed			
SOIs Declined			
Average Days SOI			
<b>ACCUSATION</b>			
Accusations Filed			

Accusations Withdrawn			
Accusations Dismissed			
Accusations Declined			
Average Days Accusations			
Pending (close of FY)			

**Table 9b. Enforcement Statistics (continued)**

	FY 2013/14	FY 2014/15	FY 2015/16
<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions			
Stipulations			
Average Days to Complete			
AG Cases Initiated			
AG Cases Pending (close of FY)			
Disciplinary Outcomes			
Revocation			
Voluntary Surrender			
Suspension			
Probation with Suspension			
Probation			
Probationary License Issued			
Other			
<b>PROBATION</b>			
New Probationers			
Probations Successfully Completed			
Probationers (close of FY)			
Petitions to Revoke Probation			
Probations Revoked			
Probations Modified			
Probations Extended			
Probationers Subject to Drug Testing			
Drug Tests Ordered			
Positive Drug Tests			
Petition for Reinstatement Granted			
<b>DIVERSION</b>			
New Participants			
Successful Completions			
Participants (close of FY)			
Terminations			
Terminations for Public Threat			
Drug Tests Ordered			
Positive Drug Tests			

<b>Table 9c. Enforcement Statistics (continued)</b>			
	FY 2013/14	FY 2014/15	FY 2015/16
<b>INVESTIGATION</b>			
All Investigations			
First Assigned			
Closed			
Average days to close			
Pending (close of FY)			
Desk Investigations			
Closed			
Average days to close			
Pending (close of FY)			
Non-Sworn Investigation			
Closed			
Average days to close			
Pending (close of FY)			
Sworn Investigation			
Closed			
Average days to close			
Pending (close of FY)			
<b>COMPLIANCE ACTION</b>			
ISO & TRO Issued			
PC 23 Orders Requested			
Other Suspension Orders			
Public Letter of Reprimand			
Cease & Desist/Warning			
Referred for Diversion			
Compel Examination			
<b>CITATION AND FINE</b>			
Citations Issued			
Average Days to Complete			
Amount of Fines Assessed			
Reduced, Withdrawn, Dismissed			
Amount Collected			
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution			



**Table 10. Enforcement Aging**

	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
1 Year						
2 Years						
3 Years						
4 Years						
Over 4 Years						
Total Cases Closed						
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days						
180 Days						
1 Year						
2 Years						
3 Years						
Over 3 Years						
Total Cases Closed						

35. What do overall statistics show as to increases or decreases in disciplinary action since last review?
36. How are cases prioritized? What is the board's compliant prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.
37. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?
- What is the dollar threshold for settlement reports received by the board?
  - What is the average dollar amount of settlements reported to the board?
38. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.
- What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?
  - What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?
  - What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?
39. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?
40. Describe the board's efforts to address unlicensed activity and the underground economy.

## Cite and Fine

41. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?
42. How is cite and fine used? What types of violations are the basis for citation and fine?
43. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?
44. What are the 5 most common violations for which citations are issued?
45. What is average fine pre- and post- appeal?
46. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

## Cost Recovery and Restitution

47. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.
48. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.
49. Are there cases for which the board does not seek cost recovery? Why?
50. Describe the board's use of Franchise Tax Board intercepts to collect cost recovery.
51. Describe the board's efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

Table 11. Cost Recovery				
(list dollars in thousands)				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Enforcement Expenditures				
Potential Cases for Recovery *				
Cases Recovery Ordered				
Amount of Cost Recovery Ordered				
Amount Collected				
* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.				

Table 12. Restitution				
(list dollars in thousands)				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Amount Ordered				
Amount Collected				

## Section 6 – Public Information Policies

52. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on



the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?

53. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long do webcast meetings remain available online?
54. Does the board establish an annual meeting calendar, and post it on the board's web site?
55. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?
56. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?
57. What methods are used by the board to provide consumer outreach and education?

## Section 7 – Online Practice Issues

58. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?

## Section 8 – Workforce Development and Job Creation

59. What actions has the board taken in terms of workforce development?
60. Describe any assessment the board has conducted on the impact of licensing delays.
61. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.
62. Describe any barriers to licensure and/or employment the board believes exist.
63. Provide any workforce development data collected by the board, such as:
  - a. Workforce shortages
  - b. Successful training programs.

## Section 9 – Current Issues

64. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?
65. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?
66. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.



- a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board's change requests?
- b. If the board is not utilizing BreEZe, what is the board's plan for future IT needs? What discussions has the board had with DCA about IT needs and options? What is the board's understanding of Release 3 boards? Is the board currently using a bridge or workaround system?

## **Section 10 – Board Action and Response to Prior Sunset Issues**

Include the following:

1. Background information concerning the issue as it pertains to the board.
2. Short discussion of recommendations made by the Committees during prior sunset review.
3. What action the board took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

## **Section 11 – New Issues**

This is the opportunity for the board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.
2. New issues that are identified by the board in this report.
3. New issues not previously discussed in this report.
4. New issues raised by the Committees.

## **Section 12 – Attachments**

Please provide the following attachments:

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).

- C. Major studies, if any (cf., Section 1, Question 4).
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

## Section 13 – Board Specific Issues

**THIS SECTION ONLY APPLIES TO SPECIFIC BOARDS, AS INDICATED BELOW.**

### **Diversion**

Discuss the board's diversion program, the extent to which it is used, the outcomes of those who participate and the overall costs of the program compared with its successes.

### **Diversion Evaluation Committees (DEC) (for BRN and Osteo only)**

1. DCA contracts with a vendor to perform probation monitoring services for licensees with substance abuse problems, why does the board use DEC? What is the value of a DEC?
2. What is the membership/makeup composition?
3. Did the board have any difficulties with scheduling DEC meetings? If so, describe why and how the difficulties were addressed.
4. Does the DEC comply with the Open Meetings Act?
5. How many meetings held in each of the last three fiscal years?
6. Who appoints the members?
7. How many cases (average) at each meeting?
8. How many pending? Are there backlogs?
9. What is the cost per meeting? Annual cost?
10. How is DEC used? What types of cases are seen by the DEC?
11. How many DEC recommendations have been rejected by the board in the past four fiscal years (broken down by year)?





# Sunset Timeline and Process

## **Sunset Report:**

About a year and a half before your Board's statutory sunset date, the Senate Committee on Business, Professions, and Economic Development will send out a template for the Sunset Report. Generally, the due date is November 1<sup>st</sup>, but for 2015 it was December 1<sup>st</sup>. The report can be drafted a few ways; the board can delegate to staff or appoint a committee to handle the report. This report must be reviewed and approved by the full board before it is submitted to the Legislature.

## **Between the Report and the Background Paper:**

Before Committee sends out the background paper and issue documents, the board should determine who will testify at the hearing, and begin to work on generic testimony about the Board. This is essentially your introductory statement. Here are some general topics that are usually covered in this portion of testimony. In general, brevity is desirable.

- History
- Function/Role
- Activities of the Bureau
- Composition/activities of advisory committee(s)
- Who you license and # of licensees
- Description of your budget

## **Background Paper/Issue Doc:**

The Committee will set a date for the Background Papers to come out, which is generally two weeks before your scheduled hearing date. Your staff will review this document for technical correctness; if you have a committee of the board designated to respond on this, they may also review the document. Work with your legal representative to ensure compliance. Generally, you only have a couple of days to respond or suggest any corrections.

The issues laid out in the Background Paper are the basis for your testimony. The Committees will likely provide you with direction on which issues they expect testimony on, but considering potential responses to some of the other issues would be appropriate, since any member of the Committees can ask any question they like during the hearing. You also want to ensure that any spoken testimony will align with the board's anticipated written responses.

## **Hearing Date:**

You should designate a staff member at the board to watch the hearing and take notes. If there are requests made or if an answer was not available at the time of the hearing, these notes will be helpful in identifying those issues. If something is asked, and you do not have a ready answer, let the Committee know you are not prepared to answer, but will get back to them with more information.

## **After the Hearing:**

The board has 30 calendar days from the date of the sunset hearing to prepare written responses to all of the issues and recommendations as well as any additional questions that may have come up during the hearing. Your board must approve these written responses because it is the work product of the board and its official response to the questions.

## **The Bill:**

A bill will be introduced with amendments to extend the date of your board's sunset. This bill will likely change dramatically from this simple date extension to include more substantive policy. Your board should take an active role in ensuring that all the necessary dates are being extended and that any policy proposals can be implemented by the board and are appropriate. Work with your staff to ensure these communications take place.





## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Proposed Board Member Manual</b>

### BACKGROUND

The Proposed Board Member Manual was drafted with the help of DCA Legal Counsel. The purpose of the document is to assist Board members in understanding their roles in responsibilities and be used as a resource for Board policies.

### ACTION REQUESTED

Staff recommends that you review the proposed Board Member Manual. Please be prepared to provide to discuss any questions you may or topics you think should be included.







Speech-Language Pathology and  
Audiology and Hearing Aid Dispensers Board

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## **DRAFT - Board Member Manual**

Rev. 8/2016

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# 1. Introduction

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## Overview

In 1973, the Legislature established the Speech-Language Pathology and Audiology Board (SLPAB) to protect the public from the unauthorized and unqualified practice of speech-language pathology and audiology. The SLPAB licensed speech-language pathologists (SLPs) and audiologists. A speech-language pathologist assesses and treats speech or communication disorders in children and disabled adults. An audiologist is a licensed health care professional who identifies, assesses, and manages disorders of the auditory, balance, and other neural systems. Audiologists evaluate, recommend, fit, dispense, and verify/validate hearing aids for patients ranging in age from newborns to the elderly.

In 2001, the Legislature created the Hearing Aid Dispensers Bureau (HADB) within the Department of Consumer Affairs as the licensing and regulatory agency for hearing aid dispensers, defined in statute as individuals engaged in the fitting or selling of hearing aids to an individual with impaired hearing. The HADB was charged with the education and protection of consumers in the purchase of hearing aids by ensuring the competency of hearing aid dispensers.

In 2010 (AB 1535 - Jones, Chapter 309, Statutes of 2009) the SLPAB and HADB were merged to create a new entity, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board). It also changed the governance structure of the Board to the following: two SLPs, two audiologists (one of whom must be a dispensing audiologist), and two hearing aid dispensers, all to be appointed by the Governor. The Governor also has the appointing authority for a public member seat to be occupied by a licensed physician and surgeon, certified in otolaryngology. Two other public member seats are to be appointed by the Senate Committee on Rules and the Speaker of the Assembly, respectively. Board Members may serve up to two, four-year terms. Board Members are paid \$100 for each day actually spent in the discharge of official duties and are reimbursed travel expenses.

The Board is one of the Boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, the Board has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

Protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code (BPC) §2531.02

The purpose of this handbook is to provide guidance to Board Members regarding general processes and procedures involved with their position on the Board. It also serves as a useful source of information for new Board Members as part of the induction process.

## **General Rules of Conduct**

The following rules of conduct detail expectations of Board Members. The Board is comprised of both public and professional members with the intention that, together, the Board can collectively protect the public and regulate the Speech-Language Pathology, Audiology and Hearing Aid Dispensing professions.

- Board Members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board Members shall recognize the equal role and responsibilities of all Board Members.
- Board Members shall adequately prepare for Board responsibilities.
- Board Members shall not speak or act for the Board without proper authorization.
- Board Members shall maintain the confidentiality of non-public documents and information.
- Board Members shall act fairly, be nonpartisan, impartial and unbiased in their role of protecting the public.
- Board Members shall treat all applicants and licensees in a fair and impartial manner.
- Board Members shall not use their positions on the Board for personal, familial or financial gain.



## **2. Board Meeting Procedures**

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All Healing Arts Boards under the DCA, including the Board must meet in accordance with the provisions set forth by the Bagley-Keene Open Meeting Act. The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

### **Open Meetings**

The Bagley-Keene Act of 1967, officially known as the Bagley-Keene Open Meeting Act, implements a provision of the California Constitution which declares that "the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny", and explicitly mandates open meetings for California State agencies, Board s, and commissions. The act facilitates accountability and transparency of government activities and protects the rights of citizens to participate in State government deliberations. Similarly, California's Brown Act of 1953 protects citizen rights with regard to open meetings at the county and local government level.

The Bagley-Keene act stipulates that the Board is to provide adequate notice of meetings to be held to the public as well as provide an opportunity for public comment. The meeting is to be conducted in an open session, except where closed session is specifically noted. See **Attachment A** for the *Guide to the Bagley-Keene Open Meeting Act*.

### **Frequency of Meetings**

The Board is mandated to hold one meeting annually (Business and Professions Code section 2531.7) but generally meets four times annually to make policy decisions and review committee recommendations. Additional meetings may be called by the Chair or by written request of any two members of the board. The Board endeavors to hold meetings in different geographic locations throughout the state when possible as a convenience to the public and licensees.

### **Board Member Attendance at Board Meetings**

Board members must attend each meeting of the Board. If a member is unable to attend he/she is asked to contact the Board Chair or the Executive Officer and ask to be excused from the meeting for a specific reason.

### **Quorum**

Five Board Members constitute a quorum of the Board for the transaction of business. Either having members in attendance or by teleconference, with proper notice, can meet the requirement for a quorum. The concurrence of a majority of those members

of the Board present and voting at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board.

## **Agenda Items**

(GC § 11125 et seq.)

Any Board Member may submit items for a Board Meeting agenda to the Board Chair with a copy to the Executive Officer three to four weeks to the meeting. Members may also recommend agenda items during the meeting under Future Agenda Items. A motion and vote may be taken but is not necessary. The Board Chair will confer with the Executive Officer and Legal Counsel regarding the future agenda items. It will be a standing item to review the status of future agenda items that have been recommend by Board Members that may not have made the current Board Meeting agenda.

Staff maintains a list of action items to research and bring back to a future Board Meeting. Staff may recommend the issue be referred to a Committee first to be vetted. Prior to items being placed on the agenda, staff conducts research to determine if an item is appropriate for Board discussion. This research starts with identifying how the item meets our mandate to protect the health and safety of California consumers. In addition, staff researches potential benefits to the State, identifies the current professional trends and what other states are doing. For items requiring legislative and/or regulatory changes, staff identifies potential concerns by anticipating who would be in support of or in opposition to the bill/rulemaking.

No item shall be added to the agenda subsequent to the provision of the meeting notice.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Items not included on the agenda may not be discussed.

## **Notice of Meetings(Government Code Section 11120 et seq.)**

The minutes are a summary, not a transcript, of each Board Meeting. They shall be prepared by Board staff and submitted for review by Board Members before the next Board Meeting. Board Minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

## **Recording (Board Prolicy)**

The meetings may be recorded if determined necessary for staff purposes. Recordings may be disposed of upon Board approval of the minutes.

## **Use of Electronic Devices During Meetings**

Members should not text or email each other during an open meeting on any matter within the Board's jurisdiction.

Use of electronic devices, including laptops, during the meetings is solely limited to access the Board Meeting materials that are in electronic format.

## **Making a Motion at Meetings**

When new business is to be introduced or a decision or action is to be proposed, a Board



Member should make a motion to introduce a new piece of business or to propose a decision or action. All motions must reflect the content of the meeting's agenda – the Board cannot act on business that is not listed on the agenda.

Upon making a motion, Board Members must speak slowly and clearly as the motion is being voice and/or video recorded. Members who opt to second a motion must remember to repeat the motion in question. Additionally, it is important to remember that once a motion has been made and seconded, it is inappropriate to make a second motion until the initial one has been resolved.

The basic process of a motion is as follows:

- An agenda item has been thoroughly discussed and reviewed. If it is a new piece of business, see step 2.
- The Board Chair opens a forum for a Member to make a motion to adopt or reject the discussed item.
- A Member makes a motion before the Board.
- Another Member seconds this motion.
- The Board Chair puts forth the motion to a vote.
- The Board Chair solicits additional comment from the Board and then the public.
- If it is a voice vote, those in favor of the motions say "aye" and those opposed say "no". Members may also vote to "abstain", meaning a non-vote or "recuse" meaning to disqualify from participation in a decision on grounds such as prejudice or personal involvement. Recusal is the proper response to a conflict of interest.
- The vote of each Board Member shall be recorded via roll call vote.
- Upon completion of the voting, the Chair will announce the result of the vote (e.g. "the ayes have it and the motion is adopted" or "the no's have it and the motion fails").



### **3. Travel & Salary Policies & Procedures**

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#### **Travel Approval**

(DCA Memorandum 96-01)

Board Members shall have Board Chair approval for travel except for regularly scheduled Board and Committee Meetings to which the Board Member is assigned.

#### **Travel Arrangements (Board Policy)**

Board staff will make travel arrangements for each Board Member as required.

#### **Out-of-State Travel**

(State Administrative Manual § 700 et seq.)

For out-of-state travel, Board Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

#### **Travel Claims**

(State Administrative Manual § 700 et seq. and DCA Travel Guidelines)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. Board Members will be provided with completed travel claim forms submitted on their behalf. The Executive Officer's Assistant maintains these forms and completes them as needed. It is advisable for Board Members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board Members shall follow the procedures contained in DCA Departmental Memoranda which are periodically disseminated by the Director and are provided to Board Members.

#### **Salary Per Diem ([BPC § 103](#))**

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by BPC § 103.

In relevant part, this section provides for the payment of salary per diem for Board Members "for each day actually spent in the discharge of official duties," and provides that the Board Member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

For Board -specified work, Board Members will be compensated for time spent performing work authorized by the Board Chair. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and committee work. That work does not include preparation time for Board or Committee Meetings. Board Members cannot claim salary per diem for time spent traveling to and from a Board or Committee Meeting.



## 4. Selection of Officers and Committees

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### Officers of the Board

The Board shall elect from its members a Chair, Vice-Chair, to hold office for one year or until their successors are duly elected and qualified.

### Roles and Responsibilities of Board Officers

#### Chair

- **Board Business:** Conducts the Board's business in a professional manner and with appropriate transparency, adhering to the highest ethical standards. Shall use Roberts Rules of Order as a guide and shall use the Bagley-Keene Act during all Board Meetings.
- **Board Vote:** Conducts roll call vote.
- **Board Affairs:** Ensures that Board matters are handled properly, including preparation of pre-meeting materials, committee functioning and orientation of new Board Members.
- **Governance:** Ensures the prevalence of Board governance policies and practices, acting as a representative of the Board as a whole.
- **Board Meeting Agendas:** Develops agendas for meetings with the Executive Officer and Legal Counsel. Presides at Board Meetings.
- **Executive Officer:** Establishes search and selection committee for hiring an Executive Officer. The committee will work with the DCA on the search. Convenes Board discussions for evaluating Executive Officer each fiscal year.
- **Board Committees:** Seeks volunteers for committees and coordinates individual Board Member assignments. Makes sure each committee has a chairperson, and stays in touch with chairpersons to be sure that their work is carried out. Obtains debrief from each Board Committee chairperson and reports committee progress and actions to Board at the Board Meeting.
- **Yearly Elections:** Solicits nominees not less than 45 days prior to open elections at Board Meeting.
- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization (as does the Executive Officer and Public Outreach Committee).

#### Vice Chair

- **Board Business:** Performs the duties and responsibilities of the Chair when the Chair is absent.
- **Board Budget:** Serves as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. Review budget change orders with staff.
- **Strategic Plan:** Serves as the Board's strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board.



- **Board Member On-Boarding:** Welcomes new members to the Board. Is available to answer questions, and understand role and responsibilities. May participate in on-Boarding meeting with staff and new members.

## **Election of Officers**

The Board elects the officers at the last meeting of the fiscal year. Officers serve a term of one-year, beginning July 1 of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board Member is running per office. An officer may be re-elected and serve for more than one term.

## **Officer Vacancies**

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the Chair becomes vacant, the Vice Chair shall assume the office of the Chair until the election for Chair is held. Elected officers shall then serve the remainder of the term.

## **Committees and Creation of Committees (BPC 2531.05 and Board Policy)**

BPC 2531.05 creates and requires The Hearing Aid Dispensing Committee. The Committee shall consist of two licensed audiologists; two licensed hearing aid dispensers; one public member; and one public member who is a licensed physician and surgeon and who is board certified in otolaryngology. This Committee is tasked with reviewing, researching, and advising the full Board on the practice of fitting or selling hearing aids.

The Chair shall establish committees, whether standing or special, as necessary.

The following committees have been created by the Board, and consist of Board Members, that meet on a regular basis, for the purpose of discussing specific issues in depth, and providing feedback and any recommendations to the full Board:

- Audiology Practice Committee
- Speech-Language Pathology Practice Committee
- Sunset Review Committee

## **Committee Appointments**

The composition of the committees and the appointment of the members shall be determined by the Board Chair in consultation with the Vice Chair and the Executive Officer. In determining the composition of each committee, the Chair shall solicit interest from the Board Members during a public meeting. The Chair shall strive to give each Board Member an opportunity to serve on at least one committee. Appointment of non-Board Members to a committee is subject to the approval of the Board.

## **5. Board Administration and Staff**

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### **Board Administration**

Board Members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board Members to become involved in the details of program delivery. Strategies for the day-to-day management of programs, operations and staff shall be the responsibility of the Executive Officer. Board Members should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

### **Board Staff**

The Board's essential functions are comprised of ensuring speech-language pathologists, audiologist, and hearing aid dispensers licensed in the State of California meet professional examination requirements and follow legal, legislative and regulatory mandates. The Board is also responsible for enforcement of State of California requirements and regulations as they pertain to the profession.

### **Appointment of Executive Officer**

The Board shall employ an Executive Officer and other necessary assistance in the carrying out of the provisions of the Board's Practice Act.

The Executive Officer serves at the pleasure of the Board Members who provide direction to the Executive Officer in the areas of program administration, budget, strategic planning, and coordination of meetings. The Executive Officer's salary is based on pay scales set by Cal HR. The Executive Officer shall be entitled to traveling and other necessary expenses in the performance of his/her duties as approved by the Board.

### **Executive Officer Evaluation**

Board Members shall evaluate the performance of the Executive Officer on an annual basis.

### **Legal Counsel**

The Board's legal counsel provides "in-house" counsel.

### **Strategic Planning**

The Board should update the strategic plan periodically every three to five years, with the option to use a facilitator to conduct the plan update. At the end of the fiscal year, an annual review conducted by the Board will evaluate the progress toward goal achievement as stated in the strategic plan and identify any areas that may require amending.

### **Legislation**

In the event time constraints preclude Board action, the Board delegates to the Executive Officer and the Board Chair and Vice Chair the authority to take action on legislation that would affect the Board. The Board shall be notified of such action as soon as possible.



## 6. Other Policies and Procedures

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### **Board Member Orientation and Training ([BPC § 453](#))**

Newly appointed and re-appointed members shall complete a training and orientation program provided by DCA within one year of assuming office. This one-day class will discuss Board Member obligations and responsibilities.

Newly appointed and re-appointed Board Members shall complete provided by the Department of Consumer Affairs (complete within one (1) year of assuming office).

([GC § 11121.9](#), [GC § 12950.1](#))

All Board Members shall complete all required training and submit compliance documentation, including but not limited to, the documents specified below:

- [Board Member Orientation Training](#) provided by the DCA (complete within one (1) year of assuming office).
- [Ethics Orientation Training](#) (complete within first six (6) months of assuming office) and every two (2) years thereafter.
- [Conflict of Interest, Form 700](#) (submit annually) and within 30 days of assuming office.
- [Sexual Harassment Prevention Training](#) (complete within first six (6) months of assuming office) and every two (2) years thereafter.

Upon assuming office, members will also receive a copy of the Bagley-Keene Open Meeting Act, which lists public meeting laws that provide the guidelines for Board Meetings. The current version of this Act can also be found at the following:

Additional Board Member resources can be found at [www.dcaBoardmembers.ca.gov](http://www.dcaBoardmembers.ca.gov). Business cards will be provided to each Board Member with the Board's name, address, telephone and fax number, and website address. A Board Member's business address, telephone and fax number, and email address may be listed on the card at the member's request.

### **Board Member Disciplinary Actions**

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner. The Chair of the Board shall sit as chair of the hearing unless the censure involves the Chair's own actions, in which case the Vice Chair of the Board shall sit as chair. In accordance with the Public Meetings Act, the censure hearing shall be conducted in open session.

### **Removal of Board Members ([BPC §§ 106](#) and [106.5](#))**

The Governor has the power to remove from office at any time any member of any Board appointed by him or her for continued neglect of duties required by law or for

incompetence or unprofessional or dishonorable conduct. The Governor may also remove from office a Board Member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

### **Resignation of Board Members ([GC § 1750](#))**

In the event that it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the director of DCA, the Board Chair, and the Executive Officer.

### **Conflict of Interest ([GC § 87100](#))**

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board Member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

### **Contact with Candidates, Applicants and Licensees**

Board Members should not intervene on behalf of a candidate or an applicant for licensure for any reason. Nor should they intervene on behalf of a licensee. All inquiries regarding licenses, applications and enforcement matters should be referred to the Executive Officer.

### **Communication with Other Organizations and Individuals**

Any and all representations made on behalf of the Board or Board Policy must be made by the Executive Officer or Board Chair, unless approved otherwise. All correspondence shall be issued on the Board's standard letterhead and will be created and disseminated by the Executive Officer's Office.

### **Gifts from Candidates**

Gifts of any kind to Board Members or the staff from candidates for licensure with the Board is not permitted.

### **Request for Records Access**

Board Member may not access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Board's Office.

### **Ex Parte Communications ([GC § 11430.10 et seq.](#))**



The Government Code contains provisions prohibiting *ex parte* communications. An *ex parte* communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of § 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board Members are prohibited from an *ex parte* communication with Board enforcement staff while a proceeding is pending. Occasionally an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board Members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board Member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the case, he or she should be told that the Board Member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the Board's legal counsel.



## 7. Complaint and Disciplinary Process

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The Board conducts disciplinary proceedings in accordance with the Administrative Procedure Act, [GC § 11370](#), and those sections that follow. The Board conducts investigations and hearings pursuant to [Government Code §§ 11180 through 11191](#). The Board also uses its [Uniform Standards Related to Substance Abuse and Disciplinary Guidelines](#) as a guide when determining appropriate levels of discipline.

### Disciplinary Options

The Board has two options available to impose discipline against a licensee. In cases in which the violations do not warrant the revocation of a license, a citation and fine is issued. In cases in which the violations are egregious and warrant revocation of the license, the Board forwards the matter to the Attorney Generals' (AG) office to pursue formal disciplinary action. Each decision is made in consultation with the Executive Officer.

### Citation and Fine

A citation and fine issued to the licensee is considered a disciplinary action and is subject to public disclosure. The fines range from \$100 to a maximum of \$2,500 for each investigation. In specified circumstances, a fine up to a maximum of \$5,000 may be issued. All citation and fines issued include an order of abatement in which the licensee must provide information or documentation that the violation has been corrected. The licensee is afforded the opportunity to appeal the issuance of the citation and fine.

### Formal Disciplinary Actions

If after the completion of an investigation, evidence substantiates gross negligence, incompetence, or unprofessional conduct, the enforcement analyst, in consultation with the Enforcement Manager and Executive Officer, determines whether the case should be forwarded to the AG's Office for disciplinary action.

### Attorney General Role

The Attorney General's Office is responsible for prosecuting the administrative case against licensees and registrants (respondents). A respondent might be suspended from practice or have her or his license revoked, or an applicant may be denied licensure or licensed with probation. A Deputy Attorney General (DAG) in the AG's Licensing Unit is assigned to these cases. The DAGs work with the Board's enforcement staff to determine whether the necessary evidence exists for a successful prosecution. The burden of proof in these matters is clear and convincing evidence. Based on the evidence, the DAG makes recommendations regarding prosecution. Although the Board generally takes the advice of counsel, the Board has the discretion to take other action.

### Filing Formal Charges

Formal charges are almost always filed in cases in which the health and safety of the consumer has been compromised, and in which supporting evidence can be established. The Board's Executive Officer determines whether to file formal charges



for any violation of the Board's licensing laws. These formal charges are referred to as pleadings. In each pleading, the Executive Officer of the Board is the complainant. Pleadings

A. Accusation: A written statement of charges against the holder of a license or privilege, to revoke, suspend or limit the license, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations.

B. Statement of Issues: A written statement of the reasons for denial of an application for a license or privilege, specifying the statutes and rules allegedly violated and the acts or omissions comprising the alleged violations.

C. Petition for reinstatement or reduction of penalty: A person whose license was revoked, suspended or placed on probation can petition for that license to be reinstated, to have the penalty reduced, or for the probation to be terminated. Many boards have specific regulations relating to these petitions. Hearings on these petitions usually take place before the Board itself at a scheduled board meeting, with an Administrative Law Judge (ALJ) presiding. The Board usually goes into executive session after the hearing to deliberate and decide the outcome. The ALJ usually prepares the Decision, for signature of the Board Chair. Some boards prefer to have the ALJ, sitting alone, hear petitions and render a proposed decision to the board. This may also happen when the Board does not have a quorum at a board meeting.

### **Actions Preceding an Administrative Hearing**

Once an Accusation or Statement of Issues has been filed and the respondent has been served, the respondent may file a notice of defense and request an administrative hearing. All hearings are held before an ALJ from the Office of Administrative Hearings (OAH).

During this process, several outcomes may occur. The respondent may fail to respond to the accusation and file a notice of defense. The respondent may wish to settle the manner prior to a formal hearing. The case may proceed to a formal hearing.

At any stage of this process, the Board may withdraw the Accusation or Statement of Issues for any reason or enter into a stipulated settlement with the respondent. If the respondent fails to respond within 15 days of receiving the accusation or statement of issues, a Default Decision is issued. Defaults result in the revocation or denial of a license.

### **Stipulation (Negotiated Settlement)**

The licensee/applicant and agency may decide to settle at any time during the administrative process. Usually, settlements are entered into before an administrative hearing is held to avoid the expense of the hearing. The settlement is reduced to a written stipulation and order which sets forth the settlement terms and proposed disciplinary order. The written stipulation and order is forwarded to the Board for its consideration.

During the settlement process the DAG has been advised by the Executive Officer or through enforcement staff regarding acceptable terms. The DAG may advocate before the Board for approval of the settlement. The Board may accept the settlement and issue its decision and order based on the settlement. If the Board rejects the settlement, the case will return to disciplinary process. A new settlement may be submitted to the Board at a later time or the case may proceed to an administrative hearing before an ALJ.



Stipulations prior to an administrative hearing eliminate the six months to one-year delay that may result from attempting to schedule a mutually agreeable hearing date. The public is often better served because the resolution time is reduced and lengthy appeals are avoided, and the Board and respondent save time and money. Further, a licensee on probation is monitored closely by the Board.

## **Determining Settlement Terms**

Stipulations are negotiated and drafted by the DAG, the respondent, and the respondent's legal counsel. Stipulation terms are given to the DAG representing the Board by the enforcement staff with approval of the Executive Officer, utilizing the Board's disciplinary guidelines. In negotiating a stipulation, the DAG works closely with the Board's Executive Officer to arrive at a stipulation that will be acceptable to the Board.

The following factors are considered when settlement terms are proposed.

- Nature and severity of the act(s), offense(s), or crime(s),
- Actual or potential harm to any consumer or client,
- Prior disciplinary record,
- Number and/or variety of current violations,
- Mitigation evidence,
- Rehabilitation evidence,
- In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation,
- Overall criminal record,
- Time elapsed since the act(s) or offense(s) occurred,
- Whether the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties, and
- Recognition by respondent of her or his wrongdoing and demonstration of corrective action to prevent recurrence.

The disciplinary guidelines were established in an effort to provide consistency in determining penalties. Enforcement staff considers the disciplinary guidelines when determining whether to seek revocation, suspension, and/or probation of a license. Board members use them when considering cases during hearings. The guidelines are updated when necessary and are distributed to DAGs and ALJs who work on cases with the Board.

Pre-hearing conferences are a more formal method for developing a stipulated agreement. These hearings involve the EO, the respondent, respondent's attorney, and an ALJ.

## **Office of Administrative Hearings (formal hearing)**

The Office of Administrative Hearings (OAH) consists of two divisions located in six regional offices at major population centers throughout the State. The General Jurisdiction Division conducts hearings, mediations, and settlement conferences for more than 1,000 state, local, and county agencies. This is the division that conducts the hearings for the Board. The Special Education Division conducts special education due process hearings and mediations for school districts and parents of children with special education needs throughout the State.

The ALJ presides over the hearing; an attorney (DAG) represents the Board and presents the case; and the respondent or the respondent's representative/attorney presents its



case. Testimony and evidence is presented and there is a transcript of the proceedings. Upon the conclusion of the administrative hearing, the ALJ will consider all of the testimony and evidence and will prepare a Proposed Decision. Once the hearing is finished, the ALJ has 30 days to prepare the proposed decision and send it to the Board. The Proposed Decision is submitted to the Board for consideration. Board Review of Stipulations, Proposed Decisions, and Default Decisions.

The Board Members review and vote on each case where the matter is either settled prior to hearing or the ALJ issues a proposed decision. In all cases, the Board Member has the option to adopt, non-adopt, or hold for discussion (reject or modify the decision).

### **Board Review of Stipulations, Proposed Decisions, and Default Decisions**

The Board Members review and vote on each case where the matter is either settled prior to hearing or the ALJ issues a proposed decision. In all cases, the Board Member has the option to adopt, non-adopt, or hold for discussion (reject or modify the decision).

#### **Stipulations – Negotiated Settlements**

- Adopt – If the decision of the Board is to adopt the terms proposed in the stipulation, the decision becomes effective within 30 days and the respondent is notified.
- Non-Adopt – If the Board decides to not adopt the stipulation, the respondent is notified and the matter resumes the process for a formal administrative hearing before an ALJ. A new settlement may be submitted to the Board at a later date.
- Hold for Discussion – A Board Member may be unable to decide due to concerns of the desire further clarification. (Note: A Board Member may seek procedural clarification from the Board's legal counsel.) In this situation, the Board Member may choose to hold the case for discussion. If one Board Member votes to hold the case for discussion, the case is discussed in the next available meeting during a closed session.

#### **Proposed Decisions – Decision from the ALJ following a formal hearing:**

- Adopt – If the decision of the Board is to adopt the proposed decision, the decision becomes effective within 30 days and the respondent is notified.
- Reduce – The Board may reduce or mitigate the proposed penalty and adopt the rest of the proposed decision.
- Non-Adopt/Reject – If the Board decides to not adopt the proposed decision, the respondent is notified. Transcripts from the administrative hearing are requested. Board Members review the transcripts and evidence, and meet during a closed session to write their decision.
- Make technical or other minor changes – If the Board decides that there are technical changes or minor changes that do not affect the factual or legal base of the decision, they may make those changes and adopt the rest of the proposed decision.

The Board then has 100 days to take action to either adopt or non-adopt. If no action is taken within 100 days the proposed decision becomes effective by law.



## **Mail Ballot Procedure**

Proposed Decisions, Proposed Stipulations, and Default Decisions are usually presented to the Board for its consideration by mail ballot. Mail ballot is done by electronic mail. Mail ballot packet materials are confidential and include the following:

- Memo from enforcement staff listing the cases for review and decision
- Ballot
- Legal documents (Proposed Decision, Proposed Stipulation or Default Decision, and Accusation or Statement of Issues)
- Memo from the assigned Deputy Attorney General (Proposed Stipulated Settlement cases only)

Deliberation and decision-making should be done independently and confidentially by each Board Member. Where the vote is done by mail, voting members may not communicate with each other, and may not contact the Deputy Attorney General, the respondent, anyone representing the respondent, any witnesses, the “complainant”, the ALJ, or anyone else associated with the case.

Additionally, Board Members should not discuss pending cases with agency staff, except as to questions of procedure or to ask whether additional information is available, and whether the agency may properly consider such information. If a Board Member has any procedural questions not specific to evidence, or any question specifically related to the cases, the questions should be directed to the Board’s DCA Legal Counsel.

Completed mail ballots are due at the Board office no later than the due date indicated in the mail ballot package. The due dates are established in accordance with the timelines indicated in Administrative Procedure Act. It may be your vote that is deciding vote in the outcome of a case. Therefore, it is critical that Board Members return their votes timely.

Mail ballot materials should be retained until notification by enforcement staff that the cases have been adopted. Once a decision is final, the mail ballot packet materials must be confidentially destroyed.

## **Mail Ballot Vote Definitions**

A. Adopt/Accept: A vote to adopt the proposed action means that you agree with the action as written.

B. Non-Adopt/Reject: A vote to not adopt the proposed action means that you disagree with one or more portions of the proposed action and do not want it adopted as the Board’s decision. However, a majority vote to adopt will prevail over a minority vote to not adopt.

C. Hold for Discussion: A vote to hold for discussion may be made if you wish to have some part of the action changed in some way (increase penalty, reduce penalty, etc.) For example, you may believe an additional or a different term or condition of probation should be added, or that a period of suspension should be longer. At least TWO votes in this category must be received to stop the process until the Board can consider the case in closed session at the board meeting.

## **Disqualification**

With some limited exception, a Board Member cannot decide a case if that Board Member investigated, prosecuted or advocated in the case or is subject to the authority of someone who investigated, prosecuted or advocated in the case. A Board Member may be disqualified for bias, prejudice, financial interest or other interest in the case.







## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Foreign-Educated Speech-Language Pathologist Applicants and English Proficiency Test Requirements</b>

Patti Solomon-Rice and Board Legal Counsel, Kelsey Pruden will report on this item.







## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Auditing the Supervision of Speech-Language Pathology Assistants</b>

Based on comments received from the Speech-Language Pathology community, Board members have expressed concern that speech-language pathology assistants are not being properly supervised.

The concern is concentrated mainly on California Code of Regulations 1399.170.15(b)(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.*

### ACTION REQUESTED

This item is for discussion with possible action to form an ad hoc committee to assist staff in understanding and addressing the problem. Possible outcomes include developing audit procedures of the supervising speech-language pathologist and exploring Board education and outreach efforts.





## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Speech-Language Pathology Credential/ Variable Term Waiver Issues</b>

Dee Parker will provide an oral report on this item.







## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Audiology Practice Committee Report</b>

Alison Grimes will provide an oral report on the August 11, 2016 Audiology Practice Committee meeting.







## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Update on <u>METX, LLC v. Wal-Mart Stores Texas, LLC</u> (E.D. Tex. 2014) 62 F.Supp.3d 569 Decision</b>

Board Legal Counsel, Kelsey Pruden will provide an oral update on this item.





## MEMORANDUM

<b>DATE</b>	August 3, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Title 16, CCR, Section 1399.170 - Speech-Language Pathology Assistants (SLPA)</b>

### BACKGROUND

At its May 2016 meeting, the Board approved modified language to the proposed text and incorporated the Supervised Clinical Experience Clock Hours which were previously approved by the Board. The changes were noticed by staff for the required 15-day comment period ended June 28, 2016.

Included are the public comments received in response to the Board's 15-day Notice along with a summary of staff's recommended responses to the comments.

### ACTION REQUESTED

Staff recommends that the Board review and approve the recommended staff responses and submit to the Office of Administrative Law for adoption.





**Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board -  
Proposed Regulations  
Title 16, CCR, Section 1399.170 - Speech-Language Pathology Assistants (SLPA)**

**Summary of Comments Received  
from 15-day Notice Ending 6/28/16**

**1. Comment from Louise Valente, MSPA, CCC-SP, Director of Staffing at Pacific Coast Speech Services**

Summary of Comment and Staff recommendation: **Staff recommends that the Board deem this comment irrelevant because the comment is not specific to the modified text that was noticed, but rather the original proposed text.**

**If the Board chooses to review the comment, the full comment is in the Board materials. Summaries and staff recommendations are listed below.**

- A. An anonymous survey should be sent to SLPs and SLPAs who are involved in this process to determine the level of compliance in their workplace, and the specific issues they face.

**Staff recommendation: Reject the Comment.** The Board does not have the staff to conduct surveys at this time. The Board does not have statutory authority to require compliance with such a survey, and therefore may not even get sufficient responses. The Board has alternatives for such licensees to submit their issues such as this rule-making process, public Board meetings, and anonymous complaints.

- B. When a SLPA supervision statement is signed, it must be accompanied by a one page summary of what a SLPA can and can not do, with laws cited. This must be co-signed by the Director of Special Education or the overseeing supervisor of the SLP. Penalties for misuse must be outlined, and the specific concerns generated by the survey must be addressed.

**Staff recommendation: Reject the Comment.** SLP supervisors sign under penalty of perjury an application statement (SPA-110) acknowledging:

I possess the following qualification to supervise an aide applicant: a current valid Speech-Language Pathology license issued by the Board; or (if employed by a public school) a valid, current , and professional clear credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing.

I have read and understand the laws and regulations pertaining to the supervision of assistants and the experience required for registration as an assistant.

I will ensure that the extent, kind, and quality of the clinical work performed are consistent with the training and experience of the assistant and shall be accountable for the assigned tasks performed by the assistant.

Upon written request of the Board, I will provide to the Board any documentation, which verifies my compliance with the requirements set forth in this statement.

The responsibility of knowing the laws and regulations relating to the tasks SLPA's are able to perform lies with the SLP as set forth in California Code of Regulations, Section 1399.170.15(a).

SLPA's sign under penalty of perjury an application statement acknowledging:

I have read and understand the excerpts of the laws and regulations, included with my application, pertaining to the responsibilities of a Speech-Language Pathology Assistant.

The following statute applies to tasks SLPA's may perform: 2538.1(b) (4A-I) & (5)

The Board does not have the authority to require the Director of Special Education or the overseeing supervisor to sign such an acknowledgement. The jurisdiction of the Board only extends to the supervising SLP.

Penalties for a violation of this nature are not outlined as it may limit the ability of the Board to render discipline. Discipline is very fact-specific so it would pose a difficulty for the Board to list penalties with certainty. In addition, the Board's ability to impose discipline is outline in the Act and the Board's regulations, and it is incumbent upon the licensee to review the penalties that could be imposed for violations of the Act.

C. A procedure for anonymous consumer complaints must be designed and available for use. A consumer complaint should generate certain action steps (e.g. a letter restating appropriate use sent to HR, Special Education, and the SLPs in that district). I do not think that districts would continue to misuse SLPAs if they were reminded/warned about abuses: I honestly think that knowledge that there were audits and monitoring methods in place would be a significant



deterrent. Once a complaint is generated, increased monitoring should be a requirement.

**Staff recommendation: Accept the Comment.** Complaint forms are available on the Board's website and can be submitted anonymously. The Board has procedures in place for complaints. It should be noted, however, that those procedures only apply to complaints about licensees because the Board only has jurisdiction over license holders.

**Staff recommendation: Reject the Comment.** The Board does not have jurisdiction over school districts and therefore it is not feasible to give reminders/warnings, do audits or increased monitoring of school districts that misuse the SLPA.

D. A SLP who is listed as responsible should be sent a followup survey two months into supervision asking how they are completing their supervision, how many hours they are allotted, and reminding them of the legal requirements. This will give the SLPs the "teeth" they need to take their concerns to their union or their district administrators. A SLPA should be sent a similar survey at least once a year (although they may not feel comfortable being honest unless changes are made).

**Staff recommendation: Reject the Comment.** The Board does not have the staff to conduct surveys at this time.

E. In the extreme case of employers who do not comply, revocation of SLPA approvals should be the final step.

**Staff recommendation: Reject the Comment.** The Board does not have jurisdiction over the employer, however; the Board will look into promulgating regulations if there is an increase in complaints alleging SLPA's are working outside their scope of practice.

6. In the case of CF/RPEs, there is evidence in social media, casual conversation, and many other sources that indicate that supervision is not always being completed according to law. There are definitely employers that regularly "skirt" regulations, to the detriment of consumers. An anonymous survey of previous clinical fellows, University professors, and employers would reveal patterns of employers who should be sent "reminder letters" of their legal responsibility. Again, in extreme cases, further RPE/CF candidates should be denied to them. If adequate supervision is not provided, the consumer is directly affected.

**Staff recommendation: Reject the Comment.** This regulation does not address CF/RPE's.

**2. Comment from Shellie Bader, M.A., CCC-SLP**

- A. There is a need for clarification and differentiation of “the first 90 days” since the level of direct support is different depending on the following 3 situations:
- a. The SLPA is new to the field (first job as a SLPA)
  - b. The SLPA is new to the position or caseload (but has at least two years of experience as a SLPA)
  - c. The supervisor is newly assigned to a SLPA, who has been in the same role with the same caseload for one year or more
  - d. Although there are many ways to consider the differentiation, one recommendation would be as follows:
    - i. SLPA new to the field – 20% direct or immediate supervision during the first 90 days
    - ii. SLPA new to a caseload with experience – 10% direct or indirect supervision during the first 90 days
    - iii. Experienced SLPA with new supervisor – 10% direct or indirect supervision during the first 30 days

**Staff recommendation: Reject the Comment.** The SLP is ultimately responsible and accountable for all the work performed by a SLPA. Requiring the SLP to provide 20% immediate supervision to a SLPA during the first ninety (90) days of employment, regardless of experience, will ensure the quality of clinical work the SLPA performs is consistent with their training and experience. In reviewing ASHA's State-by-State page for the Summary of State Requirements for Support Personnel the supervision requirement is in line with the supervision requirements of other states such as Arizona, Alaska, Alabama, Wyoming, and Oregon.

- B. Although the notice indicates that there is no fiscal impact “**Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Requires Reimbursement: None**”, unfortunately there is a significant fiscal impact that will result due to the requirement for immediate supervision during the first 90 days.
- a. All supervisors will be required to dedicate a full 20% of their time to supervision, meaning that they will be relinquishing 20% of their own caseload and direct service responsibilities.



- b. This is true, regardless of setting, in the public school setting as well as in the private and medical sectors, adding significant manpower costs to local agencies and school districts.
- c. It is possible that government and local agencies will need to hire additional supervisors whose sole responsibility would be to provide this immediate and direct supervision. Either way, the additional costs will be imminent due to increase in need for SLP supervisors (who are already in short supply!)
- d. Although the costs are significant and must be considered, I believe they are necessary expenses.
- e. Separating the supervision into the 3 categories I suggested above, would reduce the costs since the level of supervision would be reduced for situations in which the SLPA has experience.

**Staff recommendation: Accept the comment.** The Board did not contemplate the additional cost that supervision would require and will consider the cost in the Final Statement of Reasons.

**Staff recommendation: Reject the Comment.** Although the Board looks at costs when considering a rule making package, it is not the only consideration. For the considerations listed above, including public protection, the Board believes that the benefit outweighs the potential cost savings.





## Humphreys, Breanne@DCA

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**From:** SpeechandHearing@DCA  
**Sent:** Tuesday, June 14, 2016 8:11 AM  
**To:** Robison, Karen@DCA  
**Subject:** FW: Comment to Proposed Legislation Changes to SLPA Regulations

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**From:** Louise Valente [<mailto:Lvalente@sbcglobal.net>]  
**Sent:** Tuesday, June 14, 2016 8:08 AM  
**To:** SpeechandHearing@DCA  
**Cc:** 'Shellie Bader'; 'Dee Parker'  
**Subject:** Comment to Proposed Legislation Changes to SLPA Regulations

Dear SLPAB,  
Thank you for your hard work in designing the changes to the SLPA regulations.

Although I believe these changes are helpful, if consumers are to be protected it is far more critical to me that you put “teeth” in our regulations. I have talked to many CFs, SLP-As and supervisors, and the biggest issue is not the qualifications of the supervisor. Instead, it is the lack of penalty for violations of the law.

SLPAs are often misused by employers as an alternative to an SLP, e.g., “you are doing maternity leave coverage – someone will make sure the testing is completed” I have talked to SLPAs who “covered” for months for SLPs with no guidance whatsoever. The SLPA won’t complain, because they know there are many unemployed SLPAs waiting to take their place. The SLP may or may not complain for a variety of reasons both political and practical. The decision makers may or may not be aware that what they are asking is, in fact, a violation. With no specific amount of supervision required by law, there is an incentive to justify the supervision from “earlier this year” or even “last year – you worked with similar cases with Susy Jo” as sufficient to cover the SLPA now, or the supervision at school A to cover school B. “If you have a problem, you can ask” becomes the model of supervision. How does this affect the consumer? Dramatically.

If your mission is to protect the consumer, specific action steps need to be taken. Here is one way this could be done.

1. An anonymous survey should be sent to SLPs and SLPAs who are involved in this process to determine the level of compliance in their workplace, and the specific issues they face.
2. When a SLPA supervision statement is signed, it must be accompanied by a one page summary of what a SLPA can and can not do, with laws cited. This must be co-signed by the Director of Special Education or the overseeing supervisor of the SLP. Penalties for misuse must be outlined, and the specific concerns generated by the survey must be addressed.
3. A procedure for anonymous consumer complaints must be designed and available for use. A consumer complaint should generate certain action steps (e.g. a letter restating appropriate use sent to HR, Special Education, and the SLPs in that district). I do not think that districts would continue to misuse SLPAs if they were reminded/warned about abuses: I honestly think that knowledge that there were audits and monitoring methods in place would be a significant deterrent. Once a complaint is generated, increased monitoring should be a requirement.
4. A SLP who is listed as responsible should be sent a followup survey two months into supervision asking how they are completing their supervision, how many hours they are allotted, and reminding them of the legal requirements. This will give the SLPs the “teeth” they need to take their concerns to their union or their district administrators. A SLPA should be sent a similar survey at least once a year (although they may not feel comfortable being honest unless changes are made).

5. In the extreme case of employers who do not comply, revocation of SLPA approvals should be the final step.

In the case of CF/RPEs, there is evidence in social media, casual conversation, and many other sources that indicate that supervision is not always being completed according to law. There are definitely employers that regularly “skirt” regulations, to the detriment of consumers. An anonymous survey of previous clinical fellows, University professors, and employers would reveal patterns of employers who should be sent “reminder letters” of their legal responsibility. Again, in extreme cases, further RPE/CF candidates should be denied to them. If adequate supervision is not provided, the consumer is directly affected.

I am proud of the fact that California licenses speech pathologists and SLPAs, and strongly believe that the process of review and enforcement is inadequate at this time.

My Best,  
Louise Valente, MSPA, CCC-SP  
Director of Staffing  
Pacific Coast Speech Services

Email: [lvalente@epcss.net](mailto:lvalente@epcss.net)  
Phone: 714-731-6630



June 2, 2016

SLPAHADB  
2005 Evergreen St, Suite 2100  
Sacramento, CA 95815

To Whom it May Concern:

I am writing to respectfully submit a written response to the proposed regulatory changes pertaining to Speech-Language Pathology Assistants (SLPAs).

First I would like to state that I am very pleased with most of the proposed changes as I have personally witnessed inappropriate use and assignment of SLPAs in the field. As a seasoned supervisor and leader in the Speech Language Pathology Profession, these updated regulations will better serve those in our community with communication disorders.

My comments are related to Article 12 of Title 16, Chapter 13.4, section **1399.170.15 (4): Requirements for the Supervision of the Speech Language Pathology Assistant**, which reads, *"During the first 90 days, the supervisor shall provide immediate supervision at least 20% per week of the work schedule."*

I have supervised and managed the supervision of SLPAs in both the public and private sectors for approximately 8 years and my comments below are based on significant direct experience.

1. There is a need for clarification and differentiation of "the first 90 days" since the level of direct support is different depending on the following 3 situations:
  - a. The SLPA is new to the field (first job as a SLPA)
  - b. The SLPA is new to the position or caseload (but has at least two years of experience as a SLPA)
  - c. The supervisor is newly assigned to a SLPA, who has been in the same role with the same caseload for one year or more
  - d. Although there are many ways to consider the differentiation, one recommendation would be as follows:
    - i. SLPA new to the field – 20% direct or immediate supervision during the first 90 days
    - ii. SLPA new to a caseload with experience – 10% direct or indirect supervision during the first 90 days
    - iii. Experienced SLPA with new supervisor – 10% direct or indirect supervision during the first 30 days
2. Although the notice indicates that there is no fiscal impact "**Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Requires Reimbursement: None**",

unfortunately there is a significant fiscal impact that will result due to the requirement for immediate supervision during the first 90 days.

- a. All supervisors will be required to dedicate a full 20% of their time to supervision, meaning that they will be relinquishing 20% of their own caseload and direct service responsibilities.
- b. This is true, regardless of setting, in the public school setting as well as in the private and medical sectors, adding significant manpower costs to local agencies and school districts.
- c. It is possible that government and local agencies will need to hire additional supervisors whose sole responsibility would be to provide this immediate and direct supervision. Either way, the additional costs will be imminent due to increase in need for SLP supervisors (who are already in short supply!)
- d. Although the costs are significant and must be considered, I believe they are necessary expenses.
- e. Separating the supervision into the 3 categories I suggested above, would reduce the costs since the level of supervision would be reduced for situations in which the SLPA has experience.

I greatly appreciate your consideration of my comments and look forward to seeing revisions to the proposed regulations that address these concerns.

Sincerely,

Shellie Bader, M.A., CCC-SLP  
SLP License #5288  
[shellieslp@gmail.com](mailto:shellieslp@gmail.com)



## MEMORANDUM

<b>DATE</b>	August 1, 2016
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	Legislation Update

The following summary on legislation is provided for your information with assistance from DCA's Division of Legislative and Regulatory Review. In addition to the legislative bills specifically related to our Board, the Division tracks bills that impact all DCA Boards and Bureaus.

### **AB 1950 (Maienschein) Hearing aids: audio switch**

**Location:** Senate Committee on Appropriations

**Date of Hearing:** None scheduled

This bill would, on or after July 1, 2017, require a licensed hearing aid dispenser and licensed dispensing audiologist to, upon the sale of a hearing aid, provide the purchaser with a copy of a consumer hearing aid disclosure developed and made available by the Speech-Language Pathology and Audiology Board on its website. This bill also requires that the disclosure be made available on the Board's website before July 1, 2017 and include information on telecoils.

### **AB 2317 (Mullin) California State University: Doctor of Audiology degrees**

**Location:** Senate Floor, Third Reading File

**Date of Hearing:** August 4, 2016

This bill would authorize the California State University to award the Doctor of Audiology degree; would require the degree to be distinguished from doctoral degree programs at the University of California; and would require that the degree be focused on preparing audiologists to provide health care services and be consistent with the standards for accreditation set forth by the Council on Academic Accreditation in Audiology and Speech-Language Pathology.



**AB 2859 (Low) Professions and vocations: retired category: licenses.**

**Location:** Senate Floor, Second Reading File

**Date of Hearing:** None Scheduled

This bill would allow all programs within the Department to establish, by regulation, a system to issue retired licenses, with specific limitations.

**SB 1155 (Morrell) Professions and vocations: licenses: military service.**

**Location:** Assembly Committee on Appropriations


**Date of Hearing:** August 3, 2016

This bill would require every program within the Department of Consumer Affairs to waive application and initial license fees for veterans who have been honorably discharged from the California National Guard or United States Armed Forces. The waiver would not apply to renewals; any additional license, registration, or permit associated with the initial license or an application for examination.

**ACTION REQUESTED**

The Board may or may not take a position (including support, oppose, oppose unless amended, watch, or neutral) on proposed legislation. If a position of oppose is adopted, the author of the bill, as well as the chair of the committee in which the bill will be heard, must be notified by letter of that position no less than 5-7 days prior to the hearing. A support, watch, or neutral position does not require immediate notification.

## AB-1950 Hearing aids: audio switch. (2015-2016)

Text Votes **History** Bill Analysis Today's Law As Amended  ☐ Compare Versions Status Comments To Author

Date	Action
08/01/16	In committee: Referred to APPR. suspense file.
06/28/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (June 27). Re-referred to Com. on APPR.
06/09/16	Referred to Com. on B., P. & E.D.
05/27/16	In Senate. Read first time. To Com. on RLS. for assignment.
05/27/16	Read third time. Passed. Ordered to the Senate. (Ayes 67. Noes 0. Page 4959.)
05/19/16	Read second time. Ordered to Consent Calendar.
05/18/16	From committee: Do pass. To Consent Calendar. (Ayes 20. Noes 0.) (May 18).
04/26/16	Re-referred to Com. on APPR.
04/25/16	Read second time and amended.
04/21/16	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 16. Noes 0.) (April 19).
02/25/16	Referred to Com. on B. & P.
02/16/16	From printer. May be heard in committee March 17.
02/12/16	Read first time. To print.





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 32 Tf d j po!7!pg B s j d rñ!Y JJC!pgü f!Dbrjgsoj b!Dpotjüw!j po!cf dbvtf  
 33 ü f!porz!dpt ü!ü buln bz!cf!jodvssf e!cz!b!rñ d b rñ b h f odz!ps!tdi ppm  
 34 ejt usj d l x j m rñ f!jodvssf e!cf dbvtf!ü jt!bdl d s f b u f t!b!of x!dsj n f!ps  
 35 jogsb d j po-lf rñ j ob u f t!b!dsj n f!ps!jogsb d j po-lpsldi bohft!ü f!qf obrz  
 36 gps!b!dsj n f!ps!jogsb d j po-lx ju jo!ü f!n f boj oh!pg Tf d j po!28667!pg  
 37 ü f!Hpwf son f ouDpef -!psldi bohft!ü f!lef é o j j po!pg!b!dsj n f!x ju jo  
 38 ü f!n f boj oh!pg Tf d j po!7!pg B s j d rñ!Y JJC!pg ü f!Dbrjgsoj b  
 39 Dpotjüw!j po/





## AB-2317 California State University: Doctor of Audiology degrees. (2015-2016)

Text Votes **History** Bill Analysis Today's Law As Amended  ☐ Compare Versions Status Comments To Author

Date	Action
06/29/16	Read second time and amended. Ordered to third reading.
06/28/16	From committee: Amend, and do pass as amended. (Ayes 6. Noes 0.) (June 27).
06/20/16	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on APPR.
06/08/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (June 8). Re-referred to Com. on APPR.
05/19/16	Referred to Com. on ED.
05/12/16	In Senate. Read first time. To Com. on RLS. for assignment.
05/12/16	Read third time. Passed. Ordered to the Senate. (Ayes 78. Noes 0. Page 4788.)
05/05/16	Read second time. Ordered to Consent Calendar.
05/04/16	From committee: Do pass. To Consent Calendar. (Ayes 20. Noes 0.) (May 4).
04/20/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 13. Noes 0.) (April 19). Re-referred to Com. on APPR.
03/03/16	Referred to Com. on HIGHER ED.
02/19/16	From printer. May be heard in committee March 20.
02/18/16	Read first time. To print.





BN FOEFE!JO!TFOBUF!K/OF!3: -!3127

BN FOEFE!JO!TFOBUF!K/OF!31-!3127

dbrijgsojb!nfhjtnbuvsf —3126-27!sf hv nbs!tfttjpo

BTTFN CMZ!CJMM

!Op/!3428

Jouspevdfelcz!Bttfn crz!N fn cfs!N vnjo  
)Dpbvui ps;!Tf obups!Mf zvb\*

Gf csvbsz!29-!3127

Bo! bdl up! bee! Bsajdrf! 5/7! )dpon n f odjoh! x ju ! Tf dypol 77152\*! up  
Di bqf sl3!pg Qbsl51!pg Ejwjtjpo!6!pg Ujrh!4!pg u f!Fevdbjpo!Dpof-  
sf nujoh!up!qvcjrd!qpt ut fdpoebsz!f evdbjpo/

nfhjtnbuwfdpvotfnt!ejhftu

BC!3428-!bt!bn foef e-!N vnjo/ Dbrjgsojb!Tubf!Vojwf stjuz;!Epdups  
pgBvejprphz!efhsft/

Fyjtjoh!nax -!l opx olbt!u f!Epobi pf!! jhi fslFevdbjpo!Bdu!tft!lpsu -  
bn poh!pu fslu joht-lu f!n jttjpot!boe!g/odjpot!pgDbrjgsojb(t!qvcjrd  
boe!joef qfoef outfhn f out!pg i jhi fsl f evdbjpo-!boe!u fsl sf tqf dijwf  
jotujwypot!pg i jhi fsl f evdbjpo!/Qspwjtjpot!pg u f!bdlep!opubqqrz!up  
u f!Vojwf stjuz!pgDbrjgsojb!vorftt!u f!sf hf out!pg u f!Vojwf stjuz!bdulcz  
sftpmujpo-up!n bl f!u f n !bqqjrdlbcfr/

Bn poh!pu fslu joht-lu f!bdulqspwjeft!u bulu f!Vojwf stjuz!pgDbrjgsojb  
i bt!fydmtjwf!kvsjtejdjpo!jo!qvcjrd!i jhi fsl f evdbjpo!up!bx bse!u f  
epdupsbrtefhsf!ljo!brtefret!pg rfbsojoh-lfydquu bulun bz!bhsf!x ju  
u f!Dbrjgsojb!Tubf!Vojwf stjuz!up!bx bse!pjoulepdupsbrtefhsf!t!joltf rhdfe  
éfret/ X ju !sftqf du!up!epdupsbrtefhsf!t!u f!bdulrjn jut!u f!Dbrjgsojb  
Tubf!Vojwf stjuz!up!bx bsejoh!u ftf!efhsf!t!kpjourn!x ju !u f!Vojwf stjuz  
pgDbrjgsojb!bt!ef tdsjcf elbcpwf -!ps-lx ju !u f!bqqspwbrtpglu f!Dbrjgsojb

Qptúfdpoebsz! Fevdbujpo! Dpn n jttjpo-! kpjouzi! x jú ! joef qf oef ou  
jotúwújpot!pgi jhi f s!f evdbujpo/

Ui jt!cjrtx pvra!jotúf belbvú psj{f!ú f!Dbrjgsojb!Tubú!Vojwú stjuz!up  
bx bse!ú f!Epdups!pg!Bvejprphz!lef hsf f/Ui f!cjrtx pvra!sfr vjsf!ú f!lef hsf f  
up!cf!ejtújohvjtí f e!gpn lepdupsbrtef hsf f!qsphson t!bulú f!Vojwú stjuz!pg  
Dbrjgsojb/ Ui f!cjrtx pvra! sfr vjsf!ú bulú f!ef hsf f! cf! gpdvtf e! po  
qs qbsjoh!bvejprphjtú!up!qspwjef li f brú ldsf!tf svjdf t!boe!cf!dpotjtúf ou  
x jú !ú f!tuboebset!gslbdds!ejubujpo!tf úgpsi!cz!ú f!Dpvodjrtpo!Bdbef n jd  
Bdds!ejubujpo!jo!Bvejprphz!boe!Tqf f di .Mbohvbhf!Qbú prphz/ Ui f!cjrm  
x pvra!sfr vjsf!ú bulú f!twe f ou!ú f!qsphson t!bvú psj{f e!cz!ú f!cjrm  
cf! di bshf e! gfft! op! i jhi f s!ú bo! ú f! sbú! di bshf e! gpsi twef out! jo  
tubú .tvqqpsf e!qsphson t!jo!bvejprphz!bulú f!Vojwú stjuz!pg!Dbrjgsojb/  
Vpúf ;!!!n bkpsjuz!!!Bqqspqsbujpo;!!!op!!Gtdbrtdpn n júf f;!!!zf t/  
Tubú .n boebúf e!rpdbrtqspshon ;!!!op/

Ui f!qf pqrfl!pgú f!Tubú!pg!Dbrjgsojb!ep!f obdubt!gmpx t;

2 TFDUJO!2/ Bsjudrfl!5/7!)dpn n fodjoh!x jú !Tf dújpo!77152\*!jt  
3 beef e! up! Di bqúf sl 3! pg Qbsl 51! pg Ejwújtjpo! 6! pg Ujurf! 4! pg ú f  
4 Fevdbujpo!Dpef -!up!sf be;  
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6 Bsjudrfl!5/7!!!Epdupsbr!Qspshon t!jo!Bvejprphz  
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9 gmpx joh;  
: )2\* Tjodf!jút! bepqupo!jo! 2: 71-!ú f!N btúf sl Qrbo! gpsi l jhi f s  
21 Fevdbujpoli bt!tf swf e!up!dsf búf!ú f!rshf tulboe!n ptulejtújohvjtí f e  
22 i jhi f s!f evdbujpo!tztúf n!jo!ú f!obujpo!B!!f z!dpn qpof ou!pg ú f  
23 N btúf sl Qrbo!gpsi l jhi f s!Fevdbujpo!jt!ú f!ejggsf ojbujpo!pgn jttjpo  
24 boe! gvodujpo-! x i f s!cz! epdupsbrh boe! jef oujé f e! qspgfttjpobm  
25 qspshon t!bsf!rjn júf e!up!ú f!Vojwú stjuz!pg!Dbrjgsojb-!x jú !ú f  
26 qspwjútpo!ú bulú f!Dbrjgsojb!Tubú!Vojwú stjuz!lbo!qspwjef lepdupsbm  
27 fevdbujpo!jo! kpjou epdupsbrhqsphson t!x jú !ú f!Vojwú stjuz!pg  
28 Dbrjgsojb!boe!joef qf oef ou!Dbrjgsojb!qprfhf t!boe!vojwú stjúft/  
29 Ui f!ejggsf ojbujpo!pg!gvodujpo!i bt!brmpx f e!Dbrjgsojb!up!qspwjef  
2: vojwú stjrbddf t!t! up! qptúfdpoebsz! fevdbujpo!x i jrf! qsf tf svjoh  
31 r vbrjuz/  
32 )3\* Cf dbvt f! pg ú f! off e! up! qsqbsf! boe! fevdbúf! jodsf btf e  
33 ovn cf st!pg!bvejprphjtú-!ú f!Tubú!pg!Dbrjgsojb!jt!hsbojoh!ú f  
34 Dbrjgsojb! Tubú! Vojwú stjuz! bvú psjuz! up! pgg f sl ú f! Epdups! pg




2 Bvejprphz!efhsf!bt!bo!fydf!qjpol!u!f!lejgf!sf!oij!bjpol!pgdvodjpo  
 3 jo!hsbevbf!fevdbjpo!u!bu!bt!jhot!tprf!bv!psjz!bn!poh!u!f  
 4 Dbrjgsojb!i!jhi!f!s!fevdbjpo!tfhn!fou!u!f!Vojwf!stjuz!pg  
 5 Dbrjgsojb!gsl!bx!bsejoh!epdpsbrhef!hsf!t!joef!qf!oef!ourz!Ui!jt  
 6 fydf!qjpol!u!f!N!bt!f!s!Qrbo!gsl!jhi!f!s!Fevdbjpo!sf!dphoj!{f!t!u!f  
 7 ejt!jodjwf!t!uf!oh!u!t!boe!sf!t!qf!djwf!In!jtt!jpot!pgu!f!Dbrjgsojb!Tubf  
 8 Vojwf!stjuz!boe!u!f!Vojwf!stjuz!pg!Dbrjgsojb/  
 9 )c\* Qvstvbo!up!tvcejwjt!jpo!)b\*!boe!opux!ju!t!boejoh!Tf!djpo  
 : 77121/5-ljo!psef!sl!p!n!ff!ut!qf!djed!bvejprphz!fevdbjpo!of!et!jo  
 21 Dbrjgsojb!u!f!Dbrjgsojb!Tubf!Vojwf!stjuz!In!bz!bx!bse!u!f!Epdps  
 22 pg!Bvejprphz!)Bv/E/\*!efhsf!f!Ui!f!bv!psjz!u!f!bx!bse!efhsf!t  
 23 hsbou!elcz!u!jt!bsjdrlht!lrm!juf!el!u!f!lejt!djqrjof!pgdvvejprphz!Ui!f  
 24 Bv/E!efhsf!f!pggf!sf!elcz!u!f!Dbrjgsojb!Tubf!Vojwf!stjuz!ti!brn!cf  
 25 ejt!johvjt!f!el!gpn!lepdpbrhef!hsf!f!qsphsn!t!bu!f!Vojwf!stjuz!pg  
 26 Dbrjgsojb/  
 27 77152/2/ J!jn!qr!n!fo!joh!Tf!djpo!77152-lu!f!Dbrjgsojb!Tubf  
 28 Vojwf!stjuz!ti!brn!p!n!qz!x!ju!l!brn!pgu!f!gmpx!joh!sf!r!vjs!n!f!ou;  
 29 )b\* Gveejoh!po!b!qf!sgvmmjn!f!f!r!vjwbrh!out!wef!ou!GJFT!t!ebt!jt  
 2: gsf!bdi!lof!x!t!wef!ou!jolu!f!t!f!ef!hsf!f!qsphsn!t!ti!brn!cf!gpn!lx!ju!jo  
 31 u!f!Dbrjgsojb!Tubf!Vojwf!stjuz!t!f!osprn!f!ou!hspx!u!l!r!w!f!t!t!b!hsf!f  
 32 u!l!jolu!f!boevbr!Cvehf!u!Bdu!Fosprn!f!ou!jolu!f!t!f!qsphsn!t!ti!brn  
 33 op!brn!f!u!f!Dbrjgsojb!Tubf!Vojwf!stjuz!t!sbuj!pg!hsbevbf  
 34 jet!u!vdjpo!up!up!brn!f!osprn!f!ou!boe!ti!brn!p!lej!n!jo!ti!f!osprn!f!ou  
 35 hsp!x!u!jolu!vojwf!stjuz!voef!shsbevbf!qsphsn!t!Gveejoh!qspwef!e  
 36 gpn!lu!f!t!tubf!gsf!bdi!GJFT!ti!brn!cf!bu!f!l!hsf!f!e!vqpo!n!bshjohm  
 37 elpt!u!l!brn!vdjpo!u!bu!f!Dbrjgsojb!Tubf!Vojwf!stjuz!sf!df!jwf!t/  
 38 )c\* Ui!f!Epdps!pg!Bvejprphz!)Bv/E/\*!efhsf!f!pggf!sf!elcz!u!f  
 39 Dbrjgsojb!Tubf!Vojwf!stjuz!ti!brn!cf!gpdvtf!e!po!qsf!qbsjoh  
 3: bvejprphjt!u!l!qspwef!li!f!brn!l!bsf!t!f!swjdf!t!boe!ti!brn!cf!dpot!jt!f!ou  
 41 x!ju!u!f!t!t!boebset!gsl!bdsf!ejubjpo!t!f!u!gsl!u!f!cz!u!f!Dpvodj!rpo  
 42 Bdbef!n!jd!Bdsf!ejubjpo!jo!Bvejprphz!boe!Tqf!di!Mbohvbhf  
 43 Qbu!prphz/  
 44 )d\* Fbdi!t!wef!ou!jolu!f!qsphsn!t!bv!psj!f!elcz!u!jt!bsjdrlht!ti!brn  
 45 cf!di!bshf!e!gf!t!opl!i!jhi!f!s!u!bo!u!f!sbu!f!di!bshf!e!gs!t!wef!ou!jo  
 46 tubf!tvqqpsf!e!epdpsbrhef!hsf!f!qsphsn!t!jo!bvejprphz!bu!u!f  
 47 Vojwf!stjuz!pg!Dbrjgsojb!jodmvejoh!kpoj!Bv/E!qsphsn!t!pg!u!f  
 48 Dbrjgsojb!Tubf!Vojwf!stjuz!boe!u!f!Vojwf!stjuz!pg!Dbrjgsojb/  
 49 )e\* Ui!f!Dbrjgsojb!Tubf!Vojwf!stjuz!ti!brn!qspwef!boz!t!ubsu!q  
 4: boe!pgf!sbuj!pol!gveejoh!lof!f!el!gsl!u!f!qsphsn!t!bv!psj!f!elcz!u!jt  
 51 bsjdrlht!gpn!lx!ju!jolf!yt!joh!cvehf!u!gsl!bdbef!n!jd!qsphsn!t!tvqqpsu



2 x jü pvulejn jojtí joh!ü f!r vbrjuz!pg qspñsn !tvqqpsu pgg sf e! up  
 3 Dbrjgsojb!Tubf!Vojwf stjuz!voef shsbevuf!qspñsn t!/Gvoejoh!pg  
 4 ü ftf! qspñsn t! ti brñ opü sf tvñd jo! sf evdf e! voef shsbevuf  
 5 f ospm f out!bulü f!Dbrjgsojb!Tubf!Vojwf stjuz/

## AB-2859 Professions and vocations: retired category: licenses.

(2015-2016)

[Text Votes](#) **History** [Bill Analysis](#) [Today's Law](#) [As Amended](#)  [Compare Versions](#) [Status](#) [Comments](#) [To Author](#)

Date	Action
08/02/16	From committee: Amend, and do pass as amended. (Ayes 7. Noes 0.) (August 1).
06/15/16	Read second time and amended. Re-referred to Com. on APPR.
06/14/16	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 9. Noes 0.) (June 13).
05/12/16	Referred to Com. on B., P. & E.D.
05/05/16	In Senate. Read first time. To Com. on RLS. for assignment.
05/05/16	Read third time. Passed. Ordered to the Senate. (Ayes 79. Noes 0. Page 4688.)
04/28/16	Read second time. Ordered to Consent Calendar.
04/27/16	From committee: Do pass. To Consent Calendar. (Ayes 19. Noes 0.) (April 27).
04/12/16	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 16. Noes 0.) (April 12). Re-referred to Com. on APPR.
03/14/16	Referred to Com. on B. & P.
02/22/16	Read first time.
02/21/16	From printer. May be heard in committee March 22.
02/19/16	Introduced. To print.





BN FOEFE!JO!TFOBUF!K/OF!26-!3127

dbnjgposjbnfihjtnbuv sf —3126-27!sf hv nbs!tfttjpo

BTTFN CMZ!CJMM

!Op!396:

Jouspevdfelcz!Bttfn crz!N fn cfs!Mpx

Gf csvbsz!2: -!3127

Bo!bdulup!bee!Tfdjpo!574!up!ü f!Cvtjof tt!boe!Qspg ttjpot!Dpef-  
sf rhujo!up!qspg ttjpot!boe!wpdbujpot/

nfihjtnbujwf ldpvotfnt lejhf tu

BC! 396: -!bt!bnfoefe-!Mpx / Qspg ttjpot!boe!wpdbujpot;!sf üsf e  
dbuf hpsz;!rjdf otft/

Fyjtüh!rnx !qspwjef t!gslavn f spvt!cpbset-!cvsf bvt-!dñn jttjpot-  
pslqspñsn t!x jü jo!ü f!Ef qñsun foupgDpotvn f sB gñst!ü bulben jojtuf s  
ü f!rjdf otjoh!boe!sf hvrbujpo!pgl wbsjpvt!cvtjof tftt!boe!qspg ttjpot/  
Fyjtüh!rnx !bvü psj{ft!boz!pgl ü f!cpbset-!cvsf bvt-!dñn jttjpot-!ps  
qspñsn t!x jü jo!ü f!Ef qñsun fou!fydf qulbt!tqf djéf e-!up!ft ubcñti !cz  
sf hvrbujpo!bltztuf n !gslboljobdujwf !dbuf hpsz!pgl rjdf otft!gslqf stpot!x i p  
bsf !opulbdjwf rñ!f ohbhfe!jo!ü f!qñbdjdf !pgl ü f!slqspg ttjpo!ps!wpdbujpo/  
Voef sf yjtüh!rnx -!ü f!i praf slpgboljobdujwf !rjdf otft!jt!qñpi jcu!e!qñn  
f ohbhjoh!jo!boz!bdjwyz!gslx i jdi !bl rjdf otft!jt!sf r vjsf e!Fyjtüh!rnx  
ef é of t!äcñbseò!gslü f tft!qvsqptft!upljodñef -!vorñtt!fyqsf ttñ!qspwjef e  
pu!f sx jtf -!bl cvsf bv-!dñn jttjpo-!dñn juuf -!ef qñsun fou!ejwjtjpo-  
fybn jojoh!dñn juuf -!qspñsn -!boe!bhf odz/

Ui jt!cññx pvñ!beejupobññ!bvü psj{ft!boz!pgl ü f!epbset-!evsf bvt-  
dñn jttjpot-!pslqspñsn t!cpbset!x jü jo!ü f!Ef qñsun fou!up!ft ubcñti  
cz!sf hvrbujpo!bltztuf n !gslbsf üsf e!dbuf hpsz!pgl rjdf otft!gslqf stpot!x i p  
bsf !opulbdjwf rñ!f ohbhfe!jo!ü f!qñbdjdf !pgl ü f!slqspg ttjpo!ps!wpdbujpo-  
bee!wpdbujpo!Ü f!cññx pvñ!sf r vjsf !ü bulsf hvrbujpo!upljodñef !tqf djéf e  
qspwjtjpot-!ljodñejoh!ü bulbsf üsf e!rjdf otft!cf!jttvfe!up!blqf stpot!x jü

fjü fslbo!bdjwf!rjdfotf!ps!bo!jobdjwf!rjdfotf!ü bulx bt!opulqrndf elpo  
 jobdjwf!tubwt!gsl!ejtdjqrjbsz!sfbt pot/ Uif!cjmrtrtp!xpvra!qspi!jcu  
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 blrjdfotf!jt!sf!r!vjsf!e!vorftt!sf!hvr!bjpo!t!qf!djéft!üf!dsj!f!sj!gsl!b!sf!üsf!e  
 rjdfotf!f!up!qsbjd!f!i!jt!ps!i!f!sl!qspg!ttjpo!Uif!cjmr!x!pvra!bvü!psj!f!b  
 cpbse!vqpo!jü!px!o!ef!f!sn!job!jpo!-!boe!x!pvra!sf!r!vjsf!bl!cpbse!vqpo  
 sf!df!jq!pg!bl!dpn!qr!j!ou!gspn!boz!qf!st!po!-!up!jow!f!t!j!h!bf!üf!bdj!pot!pg  
 boz!rjdfotf!f!-!j!od!me!joh!-!bn!poh!pü!f!st!-!bl!qf!st!po!x!jü!bl!rjdfotf!ü!buljt  
 sf!üsf!el!ps!jobdjwf/ Uif!cjmr!x!pvra!opulbqqr!z!up!bl!cpbse!ü!buli!bt!pu!fs  
 tubw!psz!bvü!psj!z!up!f!t!ubcrjti!bl!sf!üsf!el!rjdfotf/

Vpüf;!!!n!bkpsj!z!!!B!qspqsj!bjpo;!!!op!!!G!tdbr!tdpn!n!juf!f;!!!zf!t/  
 Tubf.n!boebuf!el!r!p!dbr!t!q!sphsbn;!!!op/

Uif!qf!pqrf!pgü!f!Tubf!pg!Dbrj!psoj!ble!f!obdu!bt!gmpx!t;

- 2 TFDUPO! 2/ Tf!djpo! 574! jt! beefe! up! üf! Cvtjof!tt! boe
- 3 Qspg!ttjpot!Dpef!-!up!sf!be;
- 4 574/ )b\* Boz!pgü!f!cpbse!-!evs!f!v!t!-!dpn!-!n!jttjpot!-!ps!q!sphsbn!t
- 5 cpbse!x!jü!j!üf!ef!qbsun!f!ou!n!bz!f!t!ubcrjti!-!cz!sf!hvr!bjpo!-!b
- 6 tzt!f!n!gsl!b!sf!üsf!el!dbuf!hpsz!pg!rjdfot!v!sf!gsl!qf!st!pot!x!i!p!bsf!opu
- 7 bdjwf!r!z!f!ohbh!f!el!j!ou!f!qsbjd!f!pgü!f!sl!qspg!ttjpo!ps!vp!dbjpo/
- 8 )c\* Uif!sf!hvr!bjpo!ti!brr!op!ubj!ou!f!gmpx!joh;
- 9 )2\* Bl!sf!üsf!el!rjdfotf!ti!brr!of!j!tt!vf!el!up!bl!qf!st!po!x!jü!f!jü!f!s!bo
- : bdjwf!rjdfotf!ps!bo!jobdjwf!rjdfotf!ü!bulx bt!opulqrndf elpo!jobdjwf
- 21 tubwt!gsl!ejtdjqrjbsz!sfbt pot/
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- 23 )3\* Uif!li!prefslpgb!sf!üsf!el!rjdfotf!j!tt!vf!el!qvst!vbou!p!ü!j!t!tf!djpo
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## SB-1155 Professions and vocations: licenses: military service.

2015-2016)

Text Votes **History** Bill Analysis Today's Law As Amended  ☐ Compare Versions Status Comments To Author

Date	Action
06/29/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (June 28). Re-referred to Com. on APPR.
06/23/16	Read second time and amended. Re-referred to Com. on V.A.
06/22/16	From committee: Do pass as amended and re-refer to Com. on V.A. (Ayes 15. Noes 0.) (June 21).
06/09/16	Referred to Coms. on B. & P. and V.A.
06/02/16	In Assembly. Read first time. Held at Desk.
06/02/16	Read third time. Passed. (Ayes 39. Noes 0. Page 4148.) Ordered to the Assembly.
05/31/16	Ordered to special consent calendar.
05/31/16	Read second time and amended. Ordered to third reading.
05/27/16	From committee: Do pass as amended. (Ayes 7. Noes 0. Page 4004.) (May 27).
05/20/16	Set for hearing May 27.
04/25/16	April 25 hearing: Placed on APPR. suspense file.
04/15/16	Set for hearing April 25.
04/13/16	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0. Page 3523.) (April 12). Re-referred to Com. on APPR.
04/06/16	Set for hearing April 12.
04/05/16	From committee: Do pass and re-refer to Com. on V.A. (Ayes 9. Noes 0. Page 3377.) (April 4). Re-referred to Com. on V.A.
03/28/16	From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
03/11/16	Set for hearing April 4.
03/03/16	Referred to Coms. on B., P. & E.D. and V.A.
02/19/16	From printer. May be acted upon on or after March 20.
02/18/16	Introduced. Read first time. To Com. on RLS. for assignment. To print.





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## MEMORANDUM

<b>DATE</b>	March 9, 2015
<b>TO</b>	Board Presidents and Chairpersons
<b>FROM</b>	<b>Original Signature on File</b> Jeffrey Sears, Personnel Officer Department of Consumer Affairs
<b>SUBJECT</b>	<b>Process for Annual Performance Evaluations of Executive Officer</b>

This memorandum revises and updates the February 14, 2013, memo that outlined the process by which boards, committees or commissions (hereafter, "Board") evaluate their Executive Officer (EO), a generic term which is intended to also include Executive Directors and Registrars.

The Performance Appraisal process, which is outlined on the following pages, is based on the principle that performance should be evaluated on a regular basis in order to provide recognition of effective performance and as a tool to provide guidance in improving future performance. In accordance with best practices, the Office of Human Resources recommends that each Board:

- Provide a written evaluation of EO performance each year, which advises the EO of past performance
- Provide constructive, job-related comments and specific examples of work done well and work that could be improved.
- If applicable, provide suggestions identifying specific ways in which the EO can improve performance in the coming year.
- Place this topic on the agenda for the next Board Meeting in 2015, and annually thereafter. For the agenda, provide a copy of this memo (or successor memos on this topic) and the Board Chair/Executive Officer Supervisory Expectations memo (attached) to ensure all Board Members are aware of the EO Evaluation Process and the administrative expectations for the EO.

This topic is now included in the orientation training for new Board Members to ensure the information is disseminated in the future.

A new revision to the *Performance Appraisal for Executive Officer (Evaluation Form)* is attached to the email distributing this process revision, and will also be available to Board staff on the DCA Intranet.

### Executive Officer Performance Evaluation Process

The DCA recommends all Boards adhere to the process below, which meets Bagley-Keene Open Meeting Act requirements.

1. When a Board is ready to begin the evaluation process:
  - Determine the Board Meeting when the evaluation will occur and provide proper notice of the evaluation in the meeting agenda. Suggested language for the agenda:  
Item # -- **CLOSED SESSION**  
"The Board will meet in Closed Session pursuant to Government Code Section 11126(a)(1) to conduct its annual evaluation of its Executive Officer."
    - Ask DCA OHR staff or Board staff to provide the *Performance Appraisal for Executive Officer (Evaluation Form)* to each Member - ideally, two weeks prior to the Meeting.
2. Prior to the Board Meeting during which the EO evaluation will occur, each Board Member independently completes the **Evaluation Form**, rating and commenting on the EO's performance in each applicable category.
3. Prior to the Board Meeting during which the EO evaluation will occur, the Board President/Chairperson should contact the appropriate DCA OHR staff (the Personnel Officer or assigned Personnel Analyst) to discuss the EO's current salary, salary increase potential and any salary restrictions which may be in place.

At the Board Meeting, the EO's performance is discussed by all Board Members in a closed session under Government Code section 11126(a)(1), in accordance with the agenda. Assigned DCA Counsel may assist the Board during this process. The Board may NOT take any action to dismiss or hear any charges brought against the EO.

4. Board Members must:
  - Discuss ratings for each category and any job-related comments for that category.
  - Determine the final ratings for each category and which, if any, comments will be included in the final evaluation.
  - If applicable<sup>1</sup>, determine a recommended salary increase and effective date.
5. After the Board has reached consensus on the final ratings and on which comments will be included, the Board's designee – generally, the Board President/Chairperson - prepares a final **Evaluation Form** reflecting the Board's assessment of the EO's performance and includes any job-related comments which the Members deem necessary in order to communicate successes in the past year and any suggestions for improvement.

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<sup>1</sup> The Board, via the **Evaluation Form**, may make a recommendation to the Administration to authorize a salary increase. The increase may not exceed the maximum of the salary range for the exempt level assigned to the EO for that Board.



- If applicable, the final Evaluation Form should provide the EO with specific examples of areas for improvement. The Board's suggestions for improvement must be realistic.
  - The Board's salary increase recommendation and a prospective effective date are reported on the final Evaluation Form. Note: The effective date is typically at the beginning of a month, and should be at least thirty (30) days from the meeting date, to allow adequate time for review and approval of the request.
6. After the final Evaluation Form is completed, the Board President/Chairperson or designee meets with the EO to discuss his/her performance, the ratings and any comments provided by the Board Members. At the conclusion of the meeting, both must sign the final Evaluation Form. A signed copy is provided to the EO.
  7. After the Board President/Chairperson and the EO sign the final Evaluation Form, the original is forwarded in a confidential envelope to the Office of Human Resources (Attention: DCA Personnel Officer, at the address on page 1 of this memo), to be filed in the EO's Official Personnel File.
  8. If the Board has recommended a salary increase, the DCA OHR will prepare the documents to submit the request for final approval, based on the salary increase information and effective date indicated on the final Evaluation Form.

#### Reporting Board Action at Next Board Meeting

The Open Meeting Act requires that, after a closed session where there was an action taken to appoint, employ, or dismiss a public employee, the Board must, during open session at a subsequent public meeting, report that action and the roll call vote, if any was taken. A routine annual evaluation does not need to be reported out. If a Board meeting was held via teleconference, a roll call vote is required, and it will therefore be reported.

Questions regarding this process should be directed to Christine Lally, DCA Deputy Director for Board and Bureau Relations, at (916) 574-8200 or Jeffrey Sears, DCA Personnel Officer, at (916) 574-8301.

Attachment: Board Chair/Executive Officer Supervisory Expectations memo

cc: Awet Kidane, Director  
Tracy Rhine, Chief Deputy Director  
Christine Lally, Deputy Director, Board and Bureau Relations  
Doreathea Johnson, Deputy Director, Legal Affairs  
Tonya Corcoran, Deputy Director, Office of Administrative Services  
All Board Executive Officers, Executive Directors and Registrars  
All DCA Attorneys  
OHR Classification and Pay Managers and Analysts





## MEMORANDUM

<b>DATE</b>	March 2, 2015
<b>TO</b>	<b>Board Presidents / Chairpersons</b>
<b>FROM</b>	<b>Original Signature on File</b> Jeffrey Sears, Personnel Officer Office of Human Resources
<b>SUBJECT</b>	<b>BOARD CHAIR / EXECUTIVE OFFICER SUPERVISORY EXPECTATIONS</b>

In an effort to foster effective management and business operations, the Department of Consumer Affairs is providing some guidance to Board Presidents and Chairpersons (hereafter, "Chair") in the expectations for providing oversight to his or her board's Executive Officer or equivalent (hereafter, "EO") in the performance of the EO duties. This document describes departmental "best practices" for interactions between the Chair and the EO for specified supervisory activities.

### Administrative Oversight of EO Activities

1. Review job duties with the EO. The Chair should be familiar with the job description and duties of the EO, as well as the delegations of functions to the EO either by regulation or by policy.
2. Approve leave for the EO. The EO earns leave credits each month and the State requires that leave to be requested, approved and accounted for when used. A typical expectation would be for the EO to obtain permission from the Chair in advance of all time off and advise the Chair who will be in charge in the EO's absence. The Chair may deny time off if operational needs require the EO's attendance.
3. Approve EO timesheets and verify accuracy. At the end of each pay period, all State employees, including EOs, are required to submit a timesheet (Std. 634) to a reviewer who verifies the accuracy and signs for approval. If the EO and the Chair are following #2 above, this function should follow naturally, although there may be sick or another type of leave that was used that was not approved in advance. A typical expectation would be for the EO to fax his or her timesheet to the Chair for signature at the conclusion of each pay period. The Chair must review and fax back to the EO with his or her approval signature within a few days.



**BOARD CHAIR / EXECUTIVE OFFICER SUPERVISORY EXPECTATIONS**  
**MARCH 2, 2015**

The Chair may question the EO regarding any time off recorded that was not previously requested or approved. Similarly, the Chair should question the EO regarding leave that was taken that is not recorded on the timesheet.<sup>1</sup> While it may be policy to get approval for significant leave of less than a full day, because of their salary category, an EO's leave of less than a full day is not recorded on the timesheet.<sup>2</sup>

4. Approve travel and travel expense claims (TECs) consistent with DCA policies and State travel guidelines. Currently, significant travel other than for Board meetings requires advance approval from the Executive Office. When the EO travels on State business, he or she is eligible for reimbursement of specified expenses in accordance with State travel guidelines and DCA policies. The Chair should make sure that the travel is approved and sign the TEC for the EO's reimbursement. The Chair's own TEC should be signed by the Deputy Director for Board and Bureau relations within the Executive Office.

*This process can be handled similarly to the approval of timesheets, with the understanding that the Chair must be aware of any internal DCA policies regarding travel and/or external travel restrictions and consider those requirements before approving travel or travel claims.*

5. Review Family and Medical Leave Act (FMLA), Reasonable Accommodation (RA), and other employment laws and policies in order to be able to comply with legal requirements of supervisors. A typical expectation is that the Chair knows when to provide, or when to ask HR to provide, the required paperwork if the EO needs, or should be asked about needing, leave or an accommodation.

Effective Communication between the Chair and the EO

1. Regular Meetings. Effective communication between the EO and the Chair is essential to maintaining a highly functioning working relationship. To ensure this occurs, a typical expectation would be for the EO to set up regular meetings or communication with the Chair to discuss on-going or high profile issues. The communication can be more effective if the Chair has reviewed the duty statement or job description of and the delegations to his or her EO, so the Chair can appropriately review the duties with the EO with respect to Board issues.
2. Annual Evaluation. Each Board is expected to provide the EO with an annual written evaluation of his or her performance. To ensure this occurs, a typical expectation would be for the issue of the EO evaluation to be placed on the agenda for board discussion annually, at a regular time of year.

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<sup>1</sup> Each Board has a staff person designated as a Human Resources (HR) Liaison who can answer questions related to attendance and other personnel issues. In addition, HR office staff is available for general questions.

<sup>2</sup> The Chair should be aware of whether Board policies call for the Vice-Chair, if any, to take over these duties in the absence of the Chair.

**BOARD CHAIR / EXECUTIVE OFFICER SUPERVISORY EXPECTATIONS**  
**MARCH 2, 2015**

Ensuring Effective Management of Board Operations

1. Staff Leave Requests. Ensuring that the board office has adequate coverage to conduct board operations effectively requires the EO to manage leave requests from both management and staff. In addition, the EO must also ensure appropriate supervision of the office in his or her absence. A typical expectation would be for the EO to establish minimum coverage standards and a chain of command for office supervision in his or her absence, and communicate that information to the Chair and provide timely notice to the Chair of changes.
2. Leave Balance Management. Ensuring fiscal responsibility requires effective management of the unfunded liability of high leave balances, including the EO's own leave balance. A typical expectation would be for the EO to advise the Chair if a high leave balance situations occur and ensure reduction plans are in place to diminish the balances to an acceptable level. If the EO has a high leave balance (over 640 hours), the Chair may require the EO to complete a reduction plan.

In addition to the FMLA and RA policies referenced above, there are other policies that are relevant to the supervisory relationship between the EO and the Chair, including the Non-Discrimination Policy, Sexual Harassment Prevention Policy, and Violence in the Workplace.

If you have any questions regarding these guidelines or any guidelines referenced, please contact the Deputy Director for Board and Bureau Relations at (916) 574-8200.

cc: Awet Kidane, Director  
Tracy Rhine, Chief Deputy Director  
Tonya Corcoran, Deputy Director for Administration  
Christine Lally, Deputy Director, Board/Bureau Relations  
All Executive Officers





STATE OF CALIFORNIA



DEPARTMENT OF CONSUMER AFFAIRS

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# PERFORMANCE APPRAISAL

FOR

EXECUTIVE  
OFFICER

(including  
Executive Director  
and  
Registrar)

*Prepared by  
Department of Consumer Affairs  
Office of Human Resources  
1625 N. Market Blvd. Suite N-321  
Sacramento, CA 95834  
(Revised February 2015)*

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## **Executive Officer PERFORMANCE APPRAISAL**

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### ***INSTRUCTIONS***

1. The DCA Performance Appraisal process system is based on the principle that performance should be evaluated on a regular basis in order to provide recognition of effective performance and as a tool to provide guidance in improving future performance.
2. If the Executive Officer (hereafter, "EO", which includes Executive Director and Registrar) is not at the maximum range of salary, the Board, Committee or Commission (hereafter, "Board") may recommend a salary increase for the EO. To qualify for such increases, the EO must meet or exceed performance expectations, as determined by the Board. This form is used to document the Board's recommendation for a salary increase.
3. To indicate the rating of any performance factor, an "X" mark should be placed in the appropriate rating column and in the "Overall Rating" column on each page. Additional spaces have been provided to accommodate other critical performance factors identified by the Board.
4. Comments to the Executive Officer should:
  - Be constructive and provide guidance for future performance;
  - Include factual examples of work especially well or poorly done, and
  - Give specific suggestions for performance improvement.
5. The Overall Ratings must be consistent with the factor ratings and comments, but there is no prescribed formula for computing the Overall Rating.
6. Overall Comments may consist of a summary of comments from specific categories, general comments or comments on other job-related factors which the rater wishes to discuss. Additional pages may be attached.
7. The Board President/Chairperson will discuss the appraisal with the EO and give him or her a signed copy. In signing the appraisal, the EO merely acknowledges that s/he has reviewed the appraisal and has discussed it with the rater. His/her signature does not indicate agreement with the ratings or comments.
8. The original copy of the appraisal, signed by both the Board President/Chairperson and the EO, will be maintained by the Department of Consumer Affairs, in the Executive Officer's Official Personnel File.



## EXECUTIVE OFFICER PERFORMANCE APPRAISAL RATING SYSTEM

The rating system consists of five (5) Ratings Categories, as defined below:

### ***Outstanding***

Performance significantly exceeds the Board's expectations due to the efforts and ability of the Executive Officer when considering the job in its entirety. Significantly above-standard performance may be exhibited by consistently completing assignments in advance of deadlines; implementing plans and/or procedures to increase efficiency or effectiveness of work; working independently with little direction; and consistently meeting Board goals.

### ***Above Average***

Performance exceeds the Board's expectations due to the efforts and ability of the Executive Officer when considering the job in its entirety. Performance is beyond what is expected of an Executive Officer in this position.

### ***Average***

Performance of the Executive Officer meets the minimum expectations of the Board. The Executive Officer adequately performs the duties and responsibilities of the position.

### ***Needs Improvement***

The Executive Officer's performance fails to meet the Board's minimum expectations due to lack of effort and/or ability when considering the job in its entirety. Performance requires improvement in numerous and/or important aspects of the position.

### ***Not Applicable***

Rater is unable to assess the Executive Officer in this area, or the area is not applicable to the employee's job.





**Executive Officer**  
***PERFORMANCE APPRAISAL***  
**OVERALL RATING**

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**NAME OF EO:**

**NAME OF BOARD:**

**DATE OF BOARD MEETING WHEN RATING OCCURRED:**

The overall rating must be consistent with the factor rating and comments, but there is no prescribed formula for computing the overall rating. The rating system is described on page 2.

☐ **OUTSTANDING**

☐ **ABOVE AVERAGE**

☐ **AVERAGE**

☐ **NEEDS IMPROVEMENT**

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**OVERALL COMMENTS** *(Attach additional pages, if necessary)*

***I HAVE PARTICIPATED IN A DISCUSSION OF OVERALL JOB PERFORMANCE***

EO Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Chairperson/ President Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Salary Increase recommendation (if applicable):

☐ No increase   ☐ No increase (at maximum)   ☐ Recommended Increase: \_\_\_\_\_%

Effective Date of Salary Increase: \_\_\_\_\_



**Executive Officer**  
**PERFORMANCE APPRAISAL**

Performance Factor		Ratings				
	<b>1. Relationship with the Board</b>	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Maintains respect and trust of Board members.					
2	Provides Board with advice during consideration of issues.					
3	Keeps Board informed of progress of Board programs on a regular basis.					
4	Remains impartial and treats all Board members in a professional manner.					
5	Functions as an effective liaison between Board and Board Staff.					
6	Provides Board with complete, clear, and accurate reports, minutes, etc.					
7	Responds promptly to requests for information from Board members.					
8	Is readily available to Board members.					
9	Responds appropriately to constructive suggestions from Board members.					
	<b>OVERALL RATING:</b> <b>Relationship with the Board</b>					

**Comments:** (Attach additional pages, if necessary)



**Executive Officer**  
**PERFORMANCE APPRAISAL**

Performance Factor		Ratings				
	<b>2. Execution of Board Policy</b>	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Understands and compiles with the overall policies, laws and regulations of the Board.					
2	Implements Board policies.					
3	Efforts lead toward successful accomplishment of goals.					
	<b>OVERALL RATING:</b> <b>Execution of Board Policy</b>					

**Comments:** (Attach additional pages, if necessary)





**Executive Officer**  
**PERFORMANCE APPRAISAL**

Performance Factor		Ratings				
	<b>3. Board Programs</b>	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Ensures effective and efficient management of enforcement programs.					
2	Keeps Board apprised of enforcement program and process developments.					
3	Maintains security of examination process.					
4	Monitors validity/defensibility of examinations and provides appropriate recommendations for action.					
5	Monitors and identifies trends in candidate qualifications, pass/fail rates, etc.					
6	Resolves problems which arise in the exam process.					
7	Keeps Board apprised of exam program and process developments.					
8	Keeps Board apprised of licensing program and process developments.					
	<b>OVERALL RATING: Board Programs</b>					

**Comments:** (Attach additional pages, if necessary)



**Executive Officer**  
**PERFORMANCE APPRAISAL**

Performance Factor		Ratings				
	<b>4. Governmental Relations</b>	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Keeps the Department of Consumer Affairs informed of Board issues, problems, and accomplishments.					
2	Maintains a positive working relationship with other State Agencies.					
3	Manages Board legislative program and efforts.					
4	Manages sunset review process.					
5	Acts a liaison and participates in national organizations, federations or alliances.					
6	Represents the Board effectively before the Legislature.					
	<b>OVERALL RATING:</b> <b>Governmental Relations</b>					

**Comments:** (Attach additional pages, if necessary)



**Executive Officer**  
**PERFORMANCE APPRAISAL**

Performance Factor		Ratings				
	<b>5. Administrative Functions</b>	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Plans, organizes and directs Board administrative functions and staff.					
2	Provides oversight, direction and management of the Board's annual budget, expenditures and revenues.					
3	Keeps Board apprised of budget developments.					
4	Identifies, recommends and, as directed, seeks necessary changes to laws and regulations through proposed legislation and/or the Office of Administrative Law (OAL).					
5	Ensures compliance and enforcement of departmental, state and federal policies and procedures.					
6	Develops and executes sound personnel practices and procedures.					
	<b>OVERALL RATING:</b> <b>Administrative Functions</b>					

**Comments:** (Attach additional pages, if necessary)





**Executive Officer**  
**PERFORMANCE APPRAISAL**

Performance Factor		Ratings				
	6. Public Liaison	Outstanding	Above Average	Average	Needs Improvement	Not Applicable
1	Represents the Board before the public.					
2	Directs consumer outreach programs.					
3	Manages Board's public relations effort.					
4	Directs liaison with educational institutions.					
5	Solicits and gives attention to problems and opinions of all groups and individuals.					
6	Represents the Board before industry associations to provide information regarding the Board's laws, regulations, programs and policies.					
	<b>OVERALL RATING: Public Liaison</b>					

**Comments:** (Attach additional pages, if necessary)

**Speech-Language Pathology & Audiology  
& Hearing Aid Dispensers Board  
CALENDAR - FISCAL YEAR 2016/2017**

Rev. 7-11-2016

Month	Date	Description
August 2016	11-12	Board & Committee Meetings – Los Angeles
September 2016	5 8-10	State Holiday – Office Closed – Labor Day CAA Conference – San Diego
October 2016		
November 2016	3-4 11 17-19 24/25	Board & Committee Meetings – Sacramento State Holiday – Office Closed – Veteran's Day ASHA Convention - Philadelphia State Holiday – Office Closed – Thanksgiving Holiday
December 2016	25 Observed 12/26/2016	State Holiday – Office Closed - Christmas Day
January 2017	1 Observed 1/2/2017 16	State Holiday – Office Closed – New Year's Day State Holiday – Office Closed – Martin Luther King Jr. Day
February 2017	9-10 20	Board & Committee Meeting – San Diego State Holiday – Office Closed – Presidents Day
March 2017	31	State Holiday – Office Closed – Caesar Chavez Day
April 2017		
May 2017	11-12 29	Board & Committee Meetings – Bay Area State Holiday – Office Closed – Memorial Day
June 2017		





# Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board CALENDAR - FISCAL YEAR 2017/2018

Rev. 7-11-2016

Month	Date	Description
July 2017	4	State Holiday – Office Closed – Fourth of July
August 2017	10-11	Board & Committee Meetings - TBD
September 2017	4 TBD	State Holiday – Office Closed – Labor Day CAA Convention - TBD
October 2017		
November 2017	9-10 11 15-17 23/24	Board & Committee Meetings - TBD State Holiday – Office Closed – Veteran's Day ASHA Convention – Los Angeles State Holiday – Office Closed – Thanksgiving Holiday
December 2017	25	State Holiday – Office Closed - Christmas Day
January 2018	1 15	State Holiday – Office Closed – New Year's Day State Holiday – Office Closed – Martin Luther King Jr. Day
February 2018	8-9 19	Board & Committee Meeting - TBD State Holiday – Office Closed – Presidents Day
March 2018	31	State Holiday – Office Closed – Caesar Chavez Day
April 2018		
May 2018	10-11 28	Board & Committee Meetings -TBD State Holiday – Office Closed – Memorial Day
June 2018		

