



COMMITTEE AND BOARD MEETING NOTICE AND AGENDA

Location

San Francisco State University
J. Paul Leonard Library, Room 244
1600 Holloway Ave
San Francisco, CA 94132

Dates and Times

May 11, 2017 at 1:00 p.m. and May 12, 2017 at 9:00 a.m.

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
Vacant, Hearing Aid Dispenser
Amnon Shalev, Hearing Aid Dispenser
Marcia Raggio, Dispensing Audiologist
Rodney Diaz, Public Member/Otolaryngologist

Speech-Language Pathology Practice Committee Meeting

1. Call to Order / Roll Call / Establishment of Quorum
2. Review and Approval of the November 6, 2014 Committee Meeting Minutes
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. Discussion and Possible Action Regarding Approval Process for Speech-Language Pathology Assistant Training Programs
5. Adjournment

Upon Conclusion of the Speech-Language Pathology Practice Committee Meeting:

Full Board Meeting Open Session

1. Call to Order / Roll Call / Establishment of Quorum
2. 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))

3. Review and Approval of the February 9-10, 2017, and March 30, 2017, Board Meeting Minutes
4. Update on Bagley-Keene Open Meetings Act
5. Board Election of Officers
6. Executive Officer's Report
 - a. Administration Update
 - b. Budget Report
 - c. Licensing Report
 - d. Practical Examination Report
 - e. Enforcement Report
7. Update on Board's Sunset Review

Closed Session

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

Return to Open Session

9. Speech-Language Pathology Practice Committee Report
 - a. Approval Process for Speech-Language Pathology Assistant Training Programs
10. Update on Speech-Language Pathology Services Credential Variable Term Waiver Granted by the Commission on Teacher Credentialing and Supervision of Speech-Language Pathology Assistants
11. Update on the Federal Trade Commission Hearing on Over-the-Counter Hearing Aids
12. Discussion and Possible Action regarding the Board's Development of Telecoil Fact Sheet for Consumers
13. Discussion and Possible Action to Consider Amending Title 16, California Code of Regulations, Section 1399.127 - Hearing Aid Dispenser Advertising
14. Discussion and Possible Action to Consider adding Language to Title 16, California Code of Regulations on General Rules Regarding Fingerprints Requirement
15. Legislation Update, Review, and Possible Action
 - a. AB 12 (Cooley) State government: administrative regulations: review
 - b. AB 77 (Fong) Regulations: effective dates and legislative review
 - c. AB 241 (Dababneh) Personal information: privacy: state and local agency breach
 - d. AB 349 (McCarty) Department of Consumer Affairs: applicants for licensure: special immigrant visas
 - e. AB 387 (Thurmond) Minimum wage: health professionals: interns
 - f. AB 492 (Grayson) Public records: Department of Consumer Affairs: solicitation fees

- g. AB 508 (Santiago) Health care practitioners: student loans
- h. AB 612 (Rubio) Newborns and infants: hearing screening
- i. AB 703 (Flora) Professions and vocations: licensees: fee waiver
- j. AB 827 (Rubio) Department of Consumer Affairs: high-skill immigrants: license information
- k. AB 1005 (Calderon) Department of Consumer Affairs
- l. AB 1707 (Assembly Committee on Business and Professions) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
- m. SB 27 (Morrell) Professions and vocations: licensees: military service
- n. SB 198 (Galgiani) Hearing aid dispensers: cerumen management
- o. SB 247 (Moorlach) Professions and vocations: license requirement: business: surety bond requirement

16. Future Agenda Items and Future Board Meeting Dates

- a. August 10-11, 2017 – Sacramento
- b. October 26-27, 2017 Southern CA
- c. February 8-9, 2018 - TBD
- d. May 10-11, 2018 - TBD

17. Adjournment

Agendas and materials can be found on the Board's website at 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.



MEETING MINUTES - DRAFT
Speech-Language Pathology & Audiology
& Hearing Aid Dispensers Board
San Diego, CA

Thursday, November 6, 2014

Speech-Language Pathology Practice Committee

I. Call to Order

Patti Solomon-Rice called the Speech-Language Pathology Practice Committee meeting to order at 1:40 p.m. Ms. Solomon-Rice called roll; three members of the Committee were present and thus a quorum was established.

Committee Members Present

Patti Solomon-Rice, Chair, Speech-Language Pathologist (SLP)
Dee Parker, SLP
Debbie Snow, Public Member

Staff Present

Paul Sanchez, Executive Officer
Gary Duke, Acting Legal Counsel
Anita Joseph, Enforcement Coordinator
Karen Robison, Enforcement Analyst
Tim Yang, Licensing Analyst

Guests Present

Vanessa Cajina, KP Public Affairs for Hearing Healthcare Providers (HHP)
Allison Grimes, PhD, Dispensing Audiologist (DAU), Board Member
Jaime Lee, Public Board Member
Deane Manning, Hearing Aid Dispenser (HAD), Board Member
Bob McKinney, California Speech Language Hearing Association (CASHA)
Cynthia Peffers, Hearing Aid Dispenser, HHP
Marcia Raggio, PhD, DAU
Amnon Shalev, HAD, Board Member

II. Introductions

Paul Sanchez introduced new Board staff Anita Joseph, Enforcement Coordinator, and Karen Robison, Enforcement Analyst, and announced that Tim Yang will be replacing Debbie Crawford upon her retirement.

III. Approval of the August 20, 2014 Speech-Language Pathology Practice Committee Meeting Minutes

M/S/C

- **Approve the August 20, 2014 Speech-Language Pathology Practice Committee Meeting Minutes as amended. The motion carried 3-0**

IV. Update on the October 10, 2014 California Commission on Teacher Credentialing Meeting held in Sacramento, CA.

Ms. Parker updated the committee on the revisions the California Commission on Teacher Credentialing (CTC) discussed to the variable term waiver (VTW) criteria which would take effect January 1, 2015. Ms. Solomon-Rice spoke of the changes to the VTW language and Ms. Parker informed the committee work on the VTW issue was handled quickly. Paul Sanchez noted the Board should partner with the associations and lobby the legislature to increase the amount of programs available. Ms. Parker will monitor the CTC agenda for the VTW topic to be discussed in the future.

V. Discussion on How to Audit the Supervision of Speech-Language Pathology Assistants

Ms. Solomon-Rice explained the Speech-Language Pathology Assistant (SLPA) scope of practice and the requirements of the Supervising SLP. Mr. Sanchez indicated there are between 300 and 400 in the profession who would need to be audited. Ms. Solomon-Rice noted the development of an audit process would put additional strain on a Board that does not have the resources to handle the workload. Ms. Parker and Ms. Snow will work on developing an audit process between now and the February 2015 meeting.

VI. Update on Licensing Delays and Process Changes

Mr. Sanchez acknowledged there is a delay in license processing and is looking at the overall application process to determine where improvements can be made. Ms. Parker noted students are not aware of the Required Professional Experience (RPE) requirement, which is one cause of delays in application processing; therefore, students need to be informed of this application requirement.

VII. Discussion and Possible Recommendation for an Increase in the Number of Self-Study Hours for Continuing Education (CE)

A. ASHA's Letter and Documents to the Board about Self-Study

Discussion by the SLP committee ensued regarding increasing the number of self-study CE hours allowed per renewal cycle. Issues that were raised in the discussion about increasing the self-study hours were employers not reimbursing the cost of attending a seminar, finding a substitute teacher to cover classes, and would increasing self-study hours be beneficial to the consumer.

M/S/C Solomon-Rice/Parker

- **Refer to the Board raising the self-study CE hours allowed from six (6) hours to twelve (12) hours per renewal cycle; redefine the definition of self-study; and require CE providers to offer rigorous self-study courses. The motion carried 2-1**

VIII. Foreign Educated Speech-Language Pathology Licensure Applicants

A. Update on Revisions to Regulations

Ms. Solomon-Rice provided an overview of the Committees position on the educational equivalency of foreign applicants meeting the minimum qualifications (MQ's) for licensure. Senate Bill (SB) 1466 addresses some educational issues however; it does not address English competency.

The SLP Committee meeting adjourned at 2:50 p.m.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Discussion and Possible Action Regarding Approval Process for Speech-Language Pathology Assistant (SLPA) Training Programs

Business and Professions Code 2538.1 (b) (2) authorizes the Board to approve SLPA training programs. At the February Board meeting, the Board discussed the need for revisiting the approval process and delegated the task to the Speech-Language Pathology Practice Committee. There are currently seven approved SLPA training programs in California and the Board has received an inquiry from one potential applicant for a new program.

The SLP Practice Committee will discuss objectives and tasks necessary to approve SLPA training programs in the future.



BOARD MEETING MINUTES - DRAFT

February 9 - 10, 2017

4200 Taylor Street
 San Diego, CA 92110

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

Full Board Meeting Open Session – February 9, 2017

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

Alison Grimes, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 1:20 p.m. Ms. Grimes called roll; six members of the Board were present and thus a quorum was established.

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

Staff Present

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

Guests Present

Toni Barrient, Hearing Loss Association of America (HLAA)
 Vanessa Cajina, KP Public Affairs for Hearing Healthcare Providers (HHP)

2. Public Comment for Items not on the Agenda

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

3. Review and Approval of the November 3-4, 2016, November 17, 2016, and December 16, 2016 Board Meeting Minutes

M/S/C Shalev/Parker

- **Motion to approve the November 3-4, 2016 Board Meeting Minute with edits. The motion carried 6-0**

M/S/C Shalev/Parker

- **Motion to approve the November 17, 2016 Board meeting minutes as written. The motion carried 6-0**

M/S/C Shalev/Parker

- **Motion to accept the December 16, 2016 Board meeting minutes as written. The motion carried 6-0**

4. Executive Officer's Report

a. Administration Update

Paul Sanchez updated the Board on staffing changes which included the loss of Francisco Del Pozo (licensing) and Nguyet Pham (support staff) and the hiring of Casey Triggs (licensing). He explained the turn over to the Board as staff develops their skills they move on to new opportunities.

b. Budget Report

Mr. Sanchez advised the Board to expect overspending in enforcement. A request to augment the Attorney General line item has been submitted. He noted that the Board will be closely monitoring spending through the end of the 2016-2017 fiscal year.

c. Licensing Report

Staff has been working hard to meet the processing goals as the licensee population grows.

d. Practical Examination Report

e. Enforcement Report

The higher number of complaints on the Speech and Audiology side was pointed out. Mr. Sanchez informed the Board that the large number of complaints is due to the higher licensee population there are a larger number of complaints on the Speech and Audiology side because the licensee population is higher.

Closed Session

5. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session to Deliberate on Disciplinary Matters Including Petitions, Proposed Decisions, Stipulated Decisions, Defaults, and Any Other Disciplinary Matters.

11-2014-29

Stipulated Settlement - Adopted

Return to Open Session

The meeting returned to open session and immediately went into recess until February 10, 2017.

February 10, 2017

Alison Grimes, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 9:12 a.m. Ms. Grimes called roll; six members of the Board were present and thus a quorum was established.

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

Staff Present

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

Guests Present

Toni Barrient, HLAA
Vanessa Cajina, HHP
Joe Dobrik, Dobrik Hearing Care
Toby Hill, HHP
Cliff Johnson, HHP

6. Update on Board's Sunset Review and Hearings

Mr. Sanchez updated the Board on the Sunset Review and hearing schedule. The report was extensively detailed and the hearing is scheduled for 9:00 a.m. on March 6, 2017. Mr. Sanchez requests that all Board members be available the last two weeks of February to assist in responding to issues or questions raised by the Senate Committee.

7. Discussion and Possible Action Regarding Sunset Review Responses

The discussion of Sunset Review responses was included in the update on Board's Sunset Review and Hearings.

8. Report on Speech-Language Pathology Services Credential Variable Term Waiver and Supervision of Speech-Language Pathology Assistants

Dee Parker reported on the meeting with the Commission on Teacher Credentialing. She informed the Board of the topics discussed during the meeting which included the job of a SLPA, the training of SLPA's, and the misuse of SLPAs.

9. Update on the Approval Process for Speech-Language Pathology Assistant Training Programs

The last SLPA training program was approved prior to current staff members and the procedures for approving SLPA training programs are unable to be located. Ms. Solomon-Rice, Ms. Parker, and Breanne Humphreys along with staff from various colleges can work together on the development of a SLPA training program approval process. Meetings, when held, will be noticed so anyone can participate.

10. Overview of Continuing Education Requirements/Continued Professional Development for all Board Licensees

Mr. Sanchez gave an oral and visual presentation on the Continuing Education (CE) requirements for all the Board licensees. It was noted that the CE requirements are difficult to understand although information on the website does help clarify the requirements. Clearing up the CE language is a topic the Board can address.

11. Audiology Practice Committee Report

- a. Discussion and Possible Action on Recommendation regarding Continued Professional Development Requirements for DAUs – Title 16, CCR, Section 1399.160.3(e)(3)
- b. Discussion and Possible Action on Recommendations regarding Communication with California Children's Services (CCS)

Ms. Grimes reported to the Board the discussion of the Audiology Practice Committee. The Committee approved the August 11, 2016 Committee Meeting Minutes. She noted there was a motion to request that the Board amend the Continuing Education (CE) regulation to clarify and simplify the requirements to have more flexibility in achieving their CE hours. She mentioned that the Committee discussed the challenges with the CCS program. She noted that Ms. Raggio prepared a summary statement that outlines the challenges with CCS.

M/S/C Parker/Solomon-Rice

- **Motion to accept the report as presented to the Board. The motion carried 6-0**
- **Motion to delegate to staff to bring back information to the Board regarding the courses that are available to Dispensing Audiologists. The motion carried 6-0**
- **Delegate to Ms. Raggio to work with CAA to facilitate a meeting with CCS. The motion carried 6-0**

12. Update on Board's Development of Telecoil Fact Sheet for Consumers

Ms. Raggio briefed the Board on the work that has been done so far on the Consumer Fact Sheet. She proposed working with HLAA to improve the content and HHP informed the Board they would be happy to assist as well.

13. Discussion and Possible Action regarding Performance of Tympanometry Services and Cerumen Management by Hearing Aid Dispensers and Hearing Aid Dispenser's Scope of Practice

Mr. Sanchez informed the Board that the topic of tympanometry and cerumen management by Hearing Aid Dispensers came up prior to a bill recently introduced, SB 198. The Board is unable to take a position on SB 198; however, the Board can discuss the topic noticed in the agenda which is adding the performance of tympanometry services and cerumen management to the hearing aid dispenser's scope of practice. Board staff is asked to provide legislative analysis on the impact these changes would have on the Board.

Discussion by the Board included the expansion of the scope of practice, have to test for these services which may have significant fiscal implications, and the tympanometry is not a hearing test that is helpful for the fitting and selling of hearing aids. Response by Ms. Cajina on behalf of HHP to the issues brought by the Board regarding cerumen management notes that this is a client access issue where one visit turns into three due to having to refer out for cerumen removal. HHP is in agreement with the Board on testing and has concerns about including cerumen management in the practical exam. Toby Hill, president of HHP, responded on tympanometry by stating that when they refer out for the air-bone gap the Otolaryngologist questions why they do not perform this test. He stated that if they do not perform a tympanometry test they are fitting a hearing aid blindly. Mr. Hill opined that the bone conduction testing is subjective due to the size and shape of the skull.

14. Discussion regarding Federal Drug Administration Guidance Document: Conditions for Sale for Air-Conduction Hearing Aids (December 12, 2016)

The Board reviewed and discussed the Federal Drug Administration Guidance Document: Conditions for Sale for Air-Conduction Hearing Aids. Senators Grassley and Warren have worked together to submit a bill that will improve access to hearing aids. The Board was informed that we have an exemption on file regarding the fitting of hearing aid to persons under the age of sixteen.

15. Proposed Regulations – Discussion and Possible Action

- a. Title 16, CCR, Sections 1399.131.1 & 1399.155.1 - Uniform Standards for Speech-Language Pathologists, Audiologists, and Hearing Aid Dispensers

Ms. Pruden reviewed with the Board changes to the text that referred to the Disciplinary Guidelines in error in order to have the

M/S/C Solomon-Rice/Parker

- **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 rule making file. The motion carried 6-0**

b. Title 16, CCR, Sections 1399.131 & 1399.155 - Disciplinary Guidelines

Ms. Pruden and Anita Joseph along with Mr. Sanchez led the discussion on the final proposal for the regulation text and Disciplinary Guideline booklet. The Board recommended edits to function in a license capacity, and accepted other staff recommendations to the booklet.

M/S/C Shalev/Solomon-Rice

- **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 rule making file. The motion carried 6-0**

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

The Board, led by Ms. Pruden, discussed the latest version of the proposed hearing aid dispenser advertising language. The Board was advised that the regulation does not need to be extensive since Business and Professions Code (BPC) 651 covers the issues. The Board was informed that they may adopt a precedential decision to establish an authoritative rule for subsequent advertising situations. As there is contention within the wording of the proposed text a decision was made requesting a committee be formed to continue working on the language.

M/S/C Parker/Snow

- **Motion to delegate Amnon Shalev and Marcia Raggio to work on the proposed Hearing Aid Dispenser text. The motion carried 6-0**

16. Legislation Update, Review, and Possible Action

- a. AB 12 (Cooley) State government: administrative regulations: review
- b. AB 77 (Fong) Regulations: effective dates and legislative review
- c. SB 27 (Morrell) Professions and vocations: licenses: military service

17. Future Agenda Items and Future Board Meeting Dates

- a. May 11-12, 2017 – Bay Area
- b. August 10-11, 2017 – TBD

The Board chose to hold the August Board meeting in Sacramento.

c. November 2017 – TBD

The Board chose to change the dates of the fall Board meeting to October 26-27, 2017, and hold the meeting in Southern California.

d. February 8-9, 2018, TBD

18. Adjournment

The meeting adjourned at 3:02 p.m.



TELECONFERENCE BOARD MEETING MINUTES - DRAFT

March 30, 2017

Board Members Present

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

Staff Present

Paul Sanchez, Executive Officer
Breanne Humphreys, Program Manager
Kelsey Pruden, Legal Counsel
Karen Robison, Enforcement Analyst

Guests Present

Vanessa Cajina, KP Public Affairs for Hearing Healthcare Providers (HHP)
Amy Welch Gandy, Office of Professional Examination Services (OPES)
Toby Hill, HHP, President
Robert Ivory,
Donna McCoy, HHP
Heather Olivares, OPES
Cheree Ramon, OPES

1. Call to Order/ Role Call / Establishment of a Quorum

Alison Grimes, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 9:00a.m. Ms. Grimes called roll; eight members of the Board were present and thus a quorum was established.

2. Public Comment for Items not on the Agenda

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

3. Legislation- SB 198 (Galgiani) Hearing Aid Dispensers: Cerumen Management.

Paul Sanchez opened with an overview of SB 198 then handed the discussion over to the Board. The Board discussed tympanometry and noted that it is a diagnostic procedure not required to fit and sell hearing aids. The Board questioned whether all hearing aid dispensers (HAD) will be required to take a class or if they would be able to opt out of providing the services or if there would be two levels of licensure. It was noted that the current examinations would need to be expanded to cover tympanometry

and cerumen management if the bill passes; however, it would be impractical to include these items in the practical examination. Marcia Raggio questioned what “general vicinity” means in the language of SB 198. Kelsey Pruden apprised the Board could promulgate regulation to address what “general vicinity” means in the language of the bill.

Vanessa Cajina with HHP informed the Board that SB 198 is a work in progress. She noted that proficiency in cerumen management would need to be demonstrated and that anything above an elementary level of cerumen management would be referred to a Physician, Audiologist, or Otolaryngologist. In response to the question, “Why is tympanometry necessary for a hearing aid dispenser to perform,” Toby Hill of HHP stated that in cases where the audiogram isn’t giving accurate scores, due to the size of shape of the clients head, a tympanometry test is used to verify if the client needs to be referred out. Ms. Grimes mentioned that air bone gaps are referred out anyway, while Ms. Raggio remarked that if weight or the size of skulls were a problem with the accuracy of bone conduction tests this issue would have been addressed by the American National Standards Institute (ANSI) over the past fifty years with the calibrating standards they have set.

Mr. Sanchez advised that the Board would need to look at the data before accepting cerumen management and tympanometry as a standard of care throughout the county. He noted when looking at scope of practice, we can only go by what is stated in the law and that even if other states allow these practices we would have to look at our scope of practice and why we should expand it when hearing aid dispensers are only tasked with the fitting and selling hearing aids. When determining whether to expand our scope of practice we need to look at training and education in these areas.

Mr. Sanchez noted that the bill does not address Hearing Aid Dispenser Trainees (HT) and how the law allows an HT to perform all tasks that an HAD can perform and HT’s are only required to be supervised 20% of the time.

M/S/C Parker/Snow

- **Move to oppose the bill as written. The motion carried 7-0 with Ms. Lee abstaining.**

4. Proposed Regulations – Speech-Language Pathology Assistants

The Board discussed amendments to the proposed text which adds “business” to clarify the type of days in which the Responsibility Statement for Supervision of a Speech-Language Pathology Assistant (SPA 110) must be submitted to the Board in addition to other minor changes to the text.

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 rule making file. The motion carried 7-0 with Ms. Lee abstaining.**

5. Adjournment

The Board adjourned at 11:20a.m.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Update on Bagley-Keene Open Meetings Act

Norine Marks, DCA Legal Counsel, will discuss changes to the Bagley-Keene Open Meetings Act and the importance of Board compliance.



MEMORANDUM

DATE	February 6, 2017
TO	Executive Officers, Executive Directors, Registrar, Bureau Chiefs, Interested Parties
FROM	 Doreatha Johnson, Deputy Director & Chief Counsel Legal Affairs Division
SUBJECT	Public Meetings Bagley-Keene Open Meeting Act Guide

The attached guide includes all statutory amendments to the Bagley-Keene Open Meeting Act, through January 1, 2017. Please disregard all previous guides to the Bagley-Keene Act, issued by the Legal Affairs Division.

There are three changes that took effect during 2016:

1. Section 11121 was amended to include the State Bar of California as a "state body" subject to the Bagley Keene Open Meeting Act (Act), commencing April 1, 2016. Accordingly, the State Bar is subject to the Act, notwithstanding the exclusion provided for in section 11121.1.
2. To ensure that non-English speakers have the same opportunity to address the state body during public comment when state bodies place a time limit on the time for public comment, section 11125.7 was amended, to require the state body to allow additional time for a member of the public, who uses a translator, unless the state body utilizes simultaneous translation equipment.
3. Section 11125.8 was amended, effective June 27, 2016, to provide that any hearings, conducted pursuant to section 13963.1 are conducted by the California Victim Compensation Board, and neither the applicant nor the applicant's representative request that the hearing be open to the public, the applicant's identity is not required to be placed on the notice, agenda, announcement or report. However, in such hearing, the board shall disclose that the hearing is being held pursuant to section 13963.1. This disclosure will satisfy the disclosure requirements of section 11126.3(a).

We hope that this document is helpful to you in answering questions you may have regarding the requirements of the Open Meeting Act. Please let us know if you have questions or suggestions for improvements to the guide.

cc: Awet Kidane, Director
Jeff Mason, Chief Deputy Director
Attorneys – Legal Affairs Division

BAGLEY-KEENE OPEN MEETING ACT

TOP TEN RULES

[NOTE: GC § = Government Code Section; AG = Opinions of the California Attorney General]

1. All meetings are public. (GC §11123.)
2. Meetings must be noticed 10 calendar days in advance--including posting on the Internet. (GC §11125(a).)
3. Agenda required--must include a description of specific items to be discussed (GC §§ 11125 & 11125.1). *No item may be added to the agenda after it has been noticed unless it meets criteria for an emergency. (GC §11125(b).)
4. Meeting is "gathering" of a majority of the board or a majority of a committee of 3 or more persons where board business will be discussed. Includes telephone & e-mail communications. (GC §11122.5; Stockton Newspapers Inc. v. Members of the Redevelopment Agency of the City of Stockton (1985) 171 Cal.App.3d 95.)
5. Law applies to committees, subcommittees, and task forces that consist of 3 or more persons (includes all persons whether or not they are board members). (GC §11121)
6. Public comment must be allowed on agenda items before or during discussion of the items and before a vote, unless: (GC §11125.7.)
 - a. The public was provided an opportunity to comment at a previous committee meeting of the board. If the item has been substantially changed, another opportunity for comment must be provided.
 - b. The subject matter is appropriate for closed session.
7. Closed sessions (GC §11126.) At least one staff member must be present to record topics discussed and decisions made. (GC §11126.1).

Closed session allowed:

- a. Discuss and vote on disciplinary matters under the Administrative Procedure Act (APA). (GC §11126, subd. (c)(3).)
- b. Prepare, approve or grade examinations. (GC §11126, subd. (c)(1).)
- c. Pending litigation. (GC §11126, subd. (e)(1).)

BAGLEY-KEENE OPEN MEETING ACT

TOP TEN RULES

- d. Appointment, employment, or dismissal of executive officer (EO) unless EO requests such action to be held in public. (GC §11126, subd. (a),(b).)

No closed session allowed for:

- a. Election of board officers. (68 AG 65.)
 - b. Discussion of controversial regulations or issues.
- 8. No secret ballots or votes except mail votes on APA enforcement matters. (68 AG 65; GC §11526.)
 - 9. No proxy votes. (68 AG 65.)
 - 10. Meetings by teleconferencing (GC §11123.)
 - a. Suitable audio or video must be audible to those present at designated location(s). (GC §11123, subd. (b)(1)(B).)
 - b. Notice and agenda required. (GC §11123, subd. (b)(1)(A).)
 - c. Every location open to the public and at least one member of board physically present at the specified location. All members must attend at a public location. (GC §11123, subds. (b)(1) (C), and (F).)
 - d. Rollcall vote required. (GC §11123, subd. (b)(1)(D).)
 - e. Emergency meeting closed sessions not allowed. (GC §11123, subd. (b)(1)(E).)

Reference: January 14, 2013 "Public Meetings" Memorandum & Attached Guide to the Bagley-Keene Open Meeting Act January 2012

GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT

(Includes Amendments through January 1, 2017)

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BAGLEY-KEEN OPEN MEETING ACT

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GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT (Includes Amendments through January 1, 2017)

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body" in Section 11121(c)."

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * A copy of the rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

1. Personnel Matters

A board may meet in closed session to " . . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

"A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed." (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that "We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed." (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

"(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members "to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency." (Emphasis added.) (§11122.5(b))

B. E-Mail Prohibition

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

G. Recording and Reporting Votes

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

BAGLEY-KEENE OPEN MEETING ACT – 2017 (CALIFORNIA GOVERNMENT CODE)

11120. Public policy; legislative finding and declaration; citation of article

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1980, c. 1284, p. 4333, § 4; Stats. 1981, c. 968, p. 3683, § 4.)

11121. State body defined

As used in this article, "state body" means each of the following:

(a) Every state board, or commission,

or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1980, c. 515, § 1; Stats.1981, c. 968, p. 3683, § 5; Stats.1984, c. 193, § 38. Amended by Stats.1996, c. 1023 (S.B.1497), § 88, eff. Sept. 29, 1996; Stats.1996, c. 1064 (A.B.3351), § 783.1,

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operative July 1, 1997; Stats.2001, c. 243 (A.B.192), § 1; Amended Stats. 2003 ch 62 § 117 (SB 600), Stats. 2015, c. 537 (S.B. 387), § 22, eff. January 1, 2016.)

(Added by Stats.2001, c. 243 (A.B.192), § 2. Amended by Stats. 2008, c. 344 (S.B. 1145), § 2, eff. Sept. 26, 2008; Stats. 2015, c. 537 (S.B. 387), § 23, eff. January 1, 2016.)

11121.1. State body; exclusions

As used in this article, "state body" does not include any of the following:

(a) Except as provided in subdivision (e) of Section 11121, state agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

11121.2. Repealed by Stats. 2001, c. 243 (A.B.192), § 3

The repealed section, added by Stats.1981, c. 968, p. 3684, § 5.2, provided the additional definition of "state body" as a multimember body with authority of state body.

§ 11121.5. Repealed by Stats.1984, c. 1158, § 3

The repealed section, added by Stats.1994, c. 1179, § 1, amended by Stats.1981, c. 968, § 5.3; Stats.1983, c. 143, § 186, Stats.1983, c. 101, § 60, related to the treatment of state college and university student body organizations as state agencies. Similar provisions were added at Education Code § 89920 et. seq.

11121.7. Repealed by Stats. 2001, c. 243 (A.B.192), § 4

The repealed section, added by Stats.1980, c. 1284, p. 4333, § 5, amended by Stats.1981, c. 968, p. 3685, § 6, related to representatives of the state body.

11121.8. Repealed by Stats. 2001, c. 243 (A.B.192), § 5

The repealed section, added by

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Stats.1981, c. 968, p. 3684, § 7, related to advisory bodies.

11121.9. Provision of copy of article to members of state body

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

(Added by Stats.1980, c. 1284, p. 4334, § 6.
Amended by Stats.1981, c. 714, p. 2659, § 175;
Stats.1981, c. 968, p. 3685, § 7.1.)

11121.95. Appointees or elected officials not yet in office; conformity of conduct to article requirements

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats.1997, c. 949 (S.B.95), § 1.)

11122. Action taken

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity

upon a motion, proposal, resolution, order or similar action.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 7.3.)

11122.5. Meeting defined; series of communications to discuss, deliberate, or take action prohibited; exceptions

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b)(1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

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(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2)(A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and

noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Added by Stats.2001, c. 243 (A.B.192), § 6.
Amended by Stats.2009, c. 150 (A.B.1494), § 1.)

11123. Meetings; attendance; teleconference option

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b)(1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall

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otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state

body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 7.5;
Stats.1994, c. 1153 (A.B.3467), § 1; Stats.1997, c. 52
(A.B.1097), § 1; Stats.2001, c. 243 (A.B.192), § 7;
Stats.2014, c. 510 (A.B.2720), § 1, eff. Jan. 1, 2015.)

11123.1. State body meetings to meet protections and prohibitions of the Americans with Disabilities Act

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, c. 300 (A.B. 3035), § 1.)

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11124. Conditions to attendance

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 8.)

11124.1. Audio or video recording of proceedings; inspection of state's recording; broadcast restrictions

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Added by Stats.1980, c. 1284, p. 4334, § 7.
Amended by Stats.1981, c. 968, p. 3685, § 9;
Stats.1997, c. 949 (S.B.95), § 2; Stats.2009, c. 88
(A.B.176), § 42.)

11125. Notice of meeting

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the

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Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request, by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1973, c. 1126, p. 2291, § 1;
Stats.1975, c. 708, p. 1695, § 1; Stats.1979, c. 284, § 1, eff. July 24, 1979; Stats.1981, c. 968, p. 3685, § 10. Amended by Stats.1997, c. 949 (S.B.95), § 3;
Stats.1999, c. 393 (A.B.1234), § 1; Stats.2001, c. 243 (A.B.192), § 8; Stats. 2002, c. 300 (A.B. 3035), § 2.)

11125.1. Agendas and other writings distributed for discussion or consideration at public meetings; public records; Franchise Tax Board; inspection; availability on the Internet; closed sessions

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to

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discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the American with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right

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to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

(Added by Stats.1975, c. 959, p. 2238, § 4. Amended by Stats.1980, c. 1284, p. 4334, § 8; Stats.1981, c. 968, p. 3686, § 10.1. Amended by Stats.1997, c. 949 (S.B.95), § 4; Stats.2001, c. 670 (S.B.445), § 1; Stats. 2002, c. 300 (A.B. 3035), § 3.5.; Stats. 2005, c. 188 (A.B. 780), § 1.)

11125.2. Appointment, employment or dismissal of public employees; closed sessions; public report

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

(Added by Stats.1980, c. 1284, p. 4335, § 9.
Amended by Stats.1981, c. 968, p. 3687, § 10.3.)

11125.3. Action on items of business not appearing on agenda; notice

(a) Notwithstanding Section 11125, a

state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

(Added by Stats.1994, c. 1153 (A.B.3467), § 2.
Amended by Stats.2001, c. 243 (A.B.192), § 9.)

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**11125.4. Special meetings;
authorized purposes; notice; required
finding of hardship or need to protect
public interest**

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be

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dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

(Added by Stats.1997, c. 949 (S.B.95), § 5. Amended by Stats.1999, c. 393 (A.B.1234), § 2; Stats.2004, c. 576 (A.B.1827), § 1.; Stats. 2007, c. 92 (S.B. 519), § 1.)

11125.5. Emergency meetings

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting

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shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

(Amended by Stats.1992, c. 1312 (A.B.2912), § 11, eff. Sept. 30, 1992; Stats.1997, c. 949 (S.B.95), § 6; Stats.1999, c. 393 (A.B.1234), § 3.)

11125.6. Fish and Game Commission; emergency meetings; appeals of fishery closures or restrictions

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a

finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Added by Stats.1998, c. 1052 (A.B.1241), S 21.)

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**11125.7. Agenda item discussion
before state body; opportunity for public
address; regulation by state body;
freedom of expression; application of
provisions**

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations

limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c)(1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to closed sessions held pursuant to Section 11126.

(f) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(g) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims

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Board pursuant to Sections 13963 and 13963.1.

(h) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

(Added by Stats.1993, c. 1289 (S.B.367), § 2. Amended by Stats.1995, c. 938 (S.B.523), § 13, operative July 1, 1997; Stats.1997, c. 949 (S.B.95), § 7; Stats.2006, c. 538 (S.B.1852), § 248; Stats.2012, c. 551 (S.B.965), § 1.; Stats. 2016, c. 31 (S.B. 836), § 71, eff. June 27, 2016.)

11125.8. Hearings to consider crimes against minors or crimes of sexual assault or domestic violence; identification of applicant; disclosure of nature of hearing

(a) Notwithstanding Section 11131.5, in any hearing that the State California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

(Added by Stats.1997, c. 949 (S.B.95), § 9.; Amended by Stats. 2006, c. 538 (S.B. 1852, § 249; Stats. 2016, c. 31 (S.B. 836), § 72, eff. June 27, 2016.)

11125.9. Regional water quality control boards; compliance with notification guidelines

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of

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supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

(Added by Stats.1997, c. 301 (A.B.116), § 1.)

§ 11126. Closed sessions.

(a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any

disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of

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persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees,

or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7)(A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California

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Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications

and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed

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session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18)(A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular

or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

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(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e)(1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a

significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C)(i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3

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(commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding

the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public

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disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters

relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related

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to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1968, c. 1272, p. 2396, § 1; Stats.1970, c. 346, p. 741, § 5; Stats.1972, c. 431, p. 791, § 43; Stats.1972, c. 1010, p. 1872, § 63, eff. Aug. 17, 1972, operative July 1, 1972; Stats.1974, c. 1254, p. 2713, § 1; Stats.1974, c. 1539, p. 3525, § 1; Stats.1975, c. 197, p. 570, § 1; Stats.1975, c. 959, p. 2238, § 5; Stats.1977, c. 730, p. 2318, § 5, eff. Sept. 12, 1977; Stats.1980, c. 1197, p. 4043, § 1; Stats.1980, c. 1284, p. 4338, § 11; Stats.1981, c. 180, p. 1096, § 1; Stats.1981, c. 968, p. 3688, § 12; Stats.1982, c. 454, p. 1842, § 40; Stats.1983, c. 143, § 187; Stats.1984, c. 678, § 1; Stats.1984, c. 1284, § 4; Stats.1985, c. 186, § 1; Stats.1985, c. 1091, § 1; Stats.1986, c. 575, § 1; Stats.1987, c. 1320, § 2;

Stats.1988, c. 1448, § 29; Stats.1989, c. 177, § 2; Stats.1989, c. 882, § 2; Stats.1989, c. 1360, § 52; Stats.1989, c. 1427, § 1, eff. Oct. 2, 1989, operative Jan. 1, 1990; Stats.1991, c. 788 (A.B.1440), § 4; Stats.1992, c. 1050 (A.B.2987), § 17; Stats.1994, c. 26 (A.B.1807), § 230, eff. March 30, 1994; Stats.1994, c. 422 (A.B.2589), § 15.5, eff. Sept. 7, 1994; Stats.1994, c. 845 (S.B.1316), § 1; Stats.1995, c. 975 (A.B.265), § 3; Stats.1996, c. 1041 (A.B.3358), § 2; Stats.1997, c. 949 (S.B.95), § 8; Stats.1998, c. 210 (S.B.2008), § 1; Stats.1998, c. 972 (S.B.989), § 1; Stats.1999, c. 735 (S.B.366), § 9, eff. Oct. 10, 1999; Stats.2000, c. 1002 (S.B.1998), § 1; Stats.2000, c. 1055 (A.B.2889), § 30, eff. Sept. 30, 2000; Stats.2001, c. 21 (S.B.54), § 1, eff. June 25, 2001; Stats.2001, c. 243 (A.B.192), § 10; Stats.2002, c. 664 (A.B.3034), § 93.7; Stats.2002, c. 1113 (A.B.2072), § 1; Stats.2005, c. 288 (A.B.277), § 1; Stats.2007, c. 577 (A.B.1750), § 4, eff. Oct. 13, 2007; Stats.2008, c. 179 (S.B.1498), § 91; Stats.2008, c. 344 (S.B.1145), § 3, eff. Sept. 26, 2008; Stats.2010, c. 328 (S.B.1330), § 81; Stats.2010, c. 32 (A.B.1887), § 2, eff. June 29, 2010; Stats.2010, c. 618 (A.B.2791), § 124; Stats.2011, c. 357 (A.B.813), § 1; Stats.2013, c. 352 (A.B.1317), § 234, eff. Sept. 26, 2013, operative July 1, 2013.)

11126.1. Record of topics discussed and decisions made at closed sessions; availability

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state

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body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

(Added by Stats.1980, c. 1284, p. 4340, § 12.
Amended by Stats.1981, c. 968, p. 3691, § 13.)

11126.2. Closed session; response to confidential final draft audit report; public release of report

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats.2004, c. 576 (A.B.1827), § 2.)

11126.3. Disclosure of nature of items to be discussed in closed session; scope of session; notice of meeting; announcement of pending litigation; unnecessary disclosures; disclosures at open session following closed session

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed

session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the

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Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to

be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

(Added by Stats.1980, c. 1284, p. 4341, § 13. Amended by Stats.1981, c. 968, p. 3692, § 14; Stats.1987, c. 1320, § 3. Amended by Stats.1997, c. 949 (S.B.95), § 10; Stats.1998, c. 210 (S.B.2008), § 2; Stats.2001, c. 243 (A.B.192), § 11.)

**11126.4. Closed sessions of
Gambling Control Commission;
information prohibited from being
disclosed by law or tribal-state gaming
compact; limitations; public notice**

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

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(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(Added by Stats. 2005, c. 274 (S.B. 919), § 1.)

11126.5. Disorderly conduct of general public during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

(Added by Stats.1970, c. 1610, p. 3385, § 1.
Amended by Stats.1981, c. 968, p. 3692, § 15.)

11126.7. Fees

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

(Added by Stats.1980, c. 1284, p. 4341, § 14.
Amended by Stats.1981, c. 968, p. 3692, § 16.)

11127. Application of article

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3692, § 17.)

11128. Time of closed session

Each closed session of a state body shall be held only during a regular or special meeting of the body.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1980, c. 1284, p. 4341, § 15;
Stats.1981, c. 968, p. 3692, § 18.)

11128.5. Adjournment; declaration; notice; hour for reconvened meeting

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from

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any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

(Added by Stats.1997, c. 949 (S.B.95), § 11.)

11129. Continuance; posting notice

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours

after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats.1967, c. 1656, p. 4026, § 122.

Amended by Stats.1981, c. 968, p. 3692, § 19.

Amended by Stats.1997, c. 949 (S.B.95), § 12.)

11130. Actions to prevent violations or determine applicability of article; validity of rules discouraging expression; audio recording of closed sessions; discovery procedures for recordings

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio

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recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1969, c. 494, p. 1106, § 1;
Stats.1981, c. 968, p. 3693, § 20; Stats.1997, c. 949
(S.B.95), § 13; Stats.1999, c. 393 (A.B.1234), § 4;
Stats.2009, c. 88 (A.B.176), § 43.)

**11130.3. Judicial determination
action by state body in violation of §§
11123 or 11125 null and void; action by
interested person; grounds**

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null

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and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

(Amended by Stats.1999, c. 393 (A.B.1234), § 5.)

11130.5. Court costs and attorney fees

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a

personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Added by Stats.1975, c. 959, p. 2240, § 6. Amended by Stats.1981, c. 968, p. 3693, § 21; Stats.1985, c. 936, § 2.)

11130.7. Violations; misdemeanor

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

(Added by Stats.1980, c. 1284, p. 4341, § 16. Amended by Stats.1981, c. 968, p. 3693, § 22. Amended by Stats.1997, c. 949 (S.B. 95), § 14.)

11131. Use of facility allowing discrimination; state agency

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry, or any characteristic listed or defined in Section 11135 or that is inaccessible to disabled persons, or where members of the

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public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

(Added by Stats.1970, c. 383, p. 798, § 1. Amended by Stats.1981, c. 968, p. 3693, § 23. Amended by Stats.1997, c. 949 (S.B.95), § 15.; Stats. 2007, c. 568 (A.B. 14), § 32.)

11131.5. Identity of victims or alleged victims of crimes, tortious sexual conduct, or child abuse; public disclosure

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

(Added by Stats.1997, c. 949 (S.B.95), § 16.)

11132. Closed session by state body prohibited

Except as expressly authorized by this article, no closed session may be held by any state body.

(Added by Stats.1987, c. 1320, § 4.)



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Board Election of Officers

The Board is required to elect annually, officers for the positions of chairperson and vice chairperson (Business and Professions Code 2531.7). The current Board officers were elected to one-year terms at the May 2016 meeting.

Role of Chair

- **Board Business:** Conducts the Board's business and represents the Board in a professional manner and with appropriate transparency, adhering to the highest ethical standards.
- **Board Meeting Agendas:** Develops agendas for meetings with the Executive Officer and Legal Counsel. Presides at Board Meetings. Presides over Board meetings and conducts roll call votes using Roberts Rules of Order as a guide while adhering to the Bagley-Keene Act.
- **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.
- **Executive Officer:** Responsible for providing guidance to EO. Communicates frequently with EO regarding Board, Department, legislative, or statewide regulatory issues relating to the practices of speech-language pathology, audiology and hearing aid dispensing. Convenes Board discussions for evaluating EO each fiscal year.
- **Board Committees:** Seeks volunteers for committees and coordinates individual Board Member assignments. Makes sure that 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.

- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization (as does the Executive Officer and Public Outreach Committee).

Role of Vice Chair

- **Board Business:** Performs the duties and responsibilities of the Chair when the Chair is absent. Assist with tasks as delegated by Board Chair.
- **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.

ACTION REQUESTED

Elect a chairperson and vice chairperson to serve a one-year term beginning July 1, 2017.

Executive Officer's report will be distributed at the meeting.

0376 - Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board Analysis of Fund Condition

Prepared 4/28/2017

2017-18 Governor's Budget with CY Attorney General Augmentation

	ACTUAL 2015-16	Budget Act CY 2016-17	BY 2017-18	BY+1 2018-19
BEGINNING BALANCE	\$ 1,526	\$ 1,860	\$ 1,613	\$ 1,455
Prior Year Adjustment	\$ 21	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,547	\$ 1,860	\$ 1,613	\$ 1,455
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 27	\$ 18	\$ 18	\$ 18
125700 Other regulatory licenses and permits	\$ 504	\$ 425	\$ 431	\$ 431
125800 Renewal fees	\$ 1,397	\$ 1,447	\$ 1,435	\$ 1,435
125900 Delinquent fees	\$ 20	\$ 19	\$ 18	\$ 18
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 7	\$ 5	\$ 5	\$ 4
150500 Interest income from interfund loans	\$ 8	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,966	\$ 1,917	\$ 1,910	\$ 1,909
Transfers from Other Funds				
Proposed FY 11-12 GF Loan Repay	\$ 450	\$ -	\$ -	\$ -
Transfer from Hearing Aid Dispensers				
Totals, Revenues and Transfers	\$ 2,416	\$ 1,917	\$ 1,910	\$ 1,909
Totals, Resources	\$ 3,963	\$ 3,777	\$ 3,523	\$ 3,364
EXPENDITURES				
Disbursements:				
8880 Financial Information System for CA (State Operations)	\$ 4	\$ 3	\$ 2	\$ 2
9900 - Statewide General Administrative Expenditures (Pro Rata)	\$ -	\$ 97	\$ 133	\$ 133
Attorney General Augmentation	\$ -	\$ 135	\$ -	\$ -
1110 Program Expenditures (State Operations) -	\$ 2,099	\$ -	\$ -	\$ -
1111 Program Expenditures (State Operations) -	\$ -	\$ 1,929	\$ 1,933	\$ 1,972
Total Disbursements	\$ 2,103	\$ 2,164	\$ 2,068	\$ 2,107
FUND BALANCE				
Reserve for economic uncertainties	\$ 1,860	\$ 1,613	\$ 1,455	\$ 1,257
Months in Reserve	10.3	9.4	8.3	7.0

Revenue Projection

2016-17

Input in Blue Shaded Cells Only

DO NOT INPUT DATA ON THIS SPREADSHEET!

		FY 14-15		FY 15-16		FY 16-17		
		3/31/15 YTD	Month 13	3/31/16 YTD	Month 13	Budgeted	3/31/17 YTD	Projection
Speech Reimbursements:								
991937		\$ 14,266	\$ 22,350	\$ 21,683	\$ 36,294	\$ 33,000	\$ 26,771	\$ 46,961
991937 01	Scheduled Reimbursements/Fingerprints	\$ 10,976	\$ 17,885	\$ 16,513	\$ 30,184		\$ 23,716	\$ 43,350
991937 02	Scheduled Reimbursements/External	\$ 3,290	\$ 4,465	\$ 5,170	\$ 6,110		\$ 3,055	\$ 3,610
995988		\$ 5,118	\$ 6,986	\$ 20,218	\$ 25,398	\$ -	\$ 18,304	\$ 22,993
995988 00	Unsch - External/Other	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
995988 01	Unsch - Investigative Cost Recovery	\$ 5,118	\$ 6,986	\$ 20,218	\$ 25,398		\$ 18,304	\$ 22,993
Total Reimbursements:		\$ 19,384	\$ 29,336	\$ 41,901	\$ 61,692	\$ 33,000	\$ 45,075	\$ 69,954
Speech Revenue:								
125600		\$ 10,845	\$ 16,905	\$ 13,341	\$ 17,821	\$ 15,000	\$ 14,180	\$ 19,436
125600 SD	*Letter of Good Standing	\$ 3,970	\$ 5,880	\$ 4,160	\$ 6,010	\$ -	\$ 4,500	\$ 6,501
125600 5H	Citation and Fine	\$ 250	\$ 2,000	\$ 2,706	\$ 2,786	\$ -	\$ 1,530	\$ 1,575
125600 5T	Duplicate Renewal License	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125600 5W	Duplicate License	\$ 6,625	\$ 9,025	\$ 6,475	\$ 9,025	\$ -	\$ 8,150	\$ 11,360
125700		\$ 79,077	\$ 115,667	\$ 82,208	\$ 128,773	\$ 130,000	\$ 87,822	\$ 136,917
125700 D8	Cont. Prof. Develop Provider	\$ 3,200	\$ 4,600	\$ 3,800	\$ 4,600		\$ 2,200	\$ 2,663
125700 H2	Temporary License- SP	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125700 H3	Temporary License- AU	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125700 N1	**Speech Assistant App. Fee	\$ 18,900	\$ 28,600	\$ 20,500	\$ 31,050		\$ 18,550	\$ 28,096
125700 01	Refunded Reimbursements	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125700 5S	Application Fee - Speech	\$ 31,710	\$ 45,500	\$ 34,020	\$ 52,885		\$ 38,395	\$ 59,686
125700 5T	Initial License Fee - Speech	\$ 22,150	\$ 31,900	\$ 23,250	\$ 36,375		\$ 26,725	\$ 41,812
125700 5U	Aide Registration	\$ 420	\$ 530	\$ 420	\$ 620		\$ 450	\$ 664
125700 5V	Application Fee - Audiology	\$ 1,435	\$ 2,520	\$ 1,260	\$ 2,905		\$ 1,015	\$ 2,340
125700 5W	Initial License Fee - Audiology	\$ 1,025	\$ 1,800	\$ 900	\$ 2,075		\$ 725	\$ 1,672
125700 8V	App Fee - Dispensing Audiologist \$2	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125700 90	Over/Short Fees	\$ 47	\$ 52	\$ 366	\$ 571		\$ 396	\$ 618
125700 91	Suspended Revenue	\$ 335	\$ 335	\$ 220	\$ 220		\$ 100	\$ 100
125700 92	Prior Year Revenue Adjustment	\$ (145)	\$ (170)	\$ (2,528)	\$ (2,528)		\$ (734)	\$ (734)
125800		\$ 667,102	\$ 803,462	\$ 703,430	\$ 851,620	\$ 889,000	\$ 722,376	\$ 876,120
125800 A2	Temp Lic Renewal - SP	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125800 A3	Renewal-Temporary License AU	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125800 A6	SPA Assistant Renewal	\$ 55,950	\$ 68,770	\$ 59,030	\$ 75,380		\$ 76,725	\$ 97,976
125800 BJ	Biennial Renewal Fee - SP	\$ 545,801	\$ 663,071	\$ 606,510	\$ 734,220		\$ 613,350	\$ 742,500
125800 BK	Biennial Renewal Fee - AU	\$ 56,320	\$ 60,610	\$ 26,070	\$ 29,810		\$ 21,450	\$ 24,527
125800 RM	Continuing Prof. Devel. Renew	\$ 8,600	\$ 11,000	\$ 11,200	\$ 12,200		\$ 10,200	\$ 11,111
125800 8V	Biennial Renewal - DAU	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125800 8W	Ann Ren-Dispensing Audiologist	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
125800 90	Over/Short Fees	\$ 11	\$ 11	\$ 10	\$ 10		\$ 6	\$ 6
125800 C1	Automated Revenue Refund Claim	\$ 420	\$ -	\$ 610	\$ -		\$ 645	
125900		\$ 12,500	\$ 16,875	\$ 12,700	\$ 16,675	\$ 15,000	\$ 11,750	\$ 15,438
125900 DE	Delinq. Renewal - SPA	\$ 2,250	\$ 2,925	\$ 1,725	\$ 2,275		\$ 1,700	\$ 2,242
125900 5U	Delinq. Renewal - SP	\$ 9,800	\$ 13,300	\$ 10,675	\$ 13,950		\$ 9,725	\$ 12,709
125900 5V	Delinq. Renewal - AU	\$ 450	\$ 650	\$ 300	\$ 450		\$ 325	\$ 488
125900 8V	Delinq. Renewal - DAU	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
142500		\$ -	\$ 445	\$ -	\$ -	\$ -	\$ -	\$ -
142500	Misc. Services to the Public	\$ -	\$ 445	\$ -	\$ -		\$ -	\$ -
150300		\$ 1,592	\$ 3,409	\$ 3,472	\$ 7,205	\$ 5,000	\$ 6,851	\$ 14,217
150300 00	Income from Surplus Money Invest.	\$ 1,592	\$ 3,409	\$ 3,472	\$ 7,205		\$ 6,851	\$ 14,217
161000		\$ 310	\$ 604	\$ 504	\$ 839	\$ 2,000	\$ 1,034	\$ 1,721
161000 02	Revenue Cancelled Warrants	\$ 310	\$ 604	\$ 504	\$ 839		\$ 1,034	\$ 1,721
161400		\$ 500	\$ 575	\$ 420	\$ 595	\$ 1,000	\$ 320	\$ 437
161400 91	Dishonored Check Fee	\$ 325	\$ 400	\$ 300	\$ 475		\$ 200	\$ 317
161400 FT	Misc Revenue FTB Collection	\$ 175	\$ 175	\$ 120	\$ 120		\$ 120	\$ 120
Total Revenue:		\$ 771,926	\$ 957,942	\$ 816,075	\$ 1,023,528	\$ 1,057,000	\$ 844,333	\$ 1,064,287
Total:		\$ 791,310	\$ 987,277	\$ 857,976	\$ 1,085,220	\$ 1,090,000	\$ 889,408	\$ 1,134,241

HADB

Month:

Mar

Month Number:

9

Revenue Projection

Mos. Remaining:

3

2016-17

DO NOT INPUT DATA ON THIS SPREADSHEET!

		FY 14/15		FY 15/16		FY 16/17		
Revenue Code:		3/31/15 YTD	Month 13	3/31/16 YTD	Month 13	Budgeted	3/31/17 YTD	Projection
HADB Reimbursements:								
991913		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
991913 00	Scheduled Interdepartmental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
991937		\$ 294	\$ 441	\$ 343	\$ 588	\$ -	\$ 490	\$ 840
991937 01	Fingerprint Reports	\$ 294	\$ 441	\$ 343	\$ 588	\$ -	\$ 490	\$ 840
991937 02	Scheduled Reimbursements/External	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
995988		\$ 2,275	\$ 2,025	\$ 525	\$ 525	\$ -	\$ -	\$ -
995988 01	Unsch - Investigative Cost Recovery	\$ 2,275	\$ 2,025	\$ 525	\$ 525	\$ -	\$ -	\$ -
Total Reimbursements:		\$ 2,569	\$ 2,466	\$ 868	\$ 1,113	\$ -	\$ 490	\$ 840
HADB Revenue:								
125600		\$ 8,765	\$ 11,405	\$ 6,995	\$ 9,764	\$ 3,000	\$ 11,098	\$ 15,790
125600 00	Other Regulatory Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125600 3M	Replacement Lic \$25	\$ 900	\$ 1,075	\$ 1,575	\$ 1,775	\$ -	\$ 1,400	\$ 1,578
125600 3N	Official Lic cert \$15	\$ 465	\$ 2,430	\$ 420	\$ 720	\$ -	\$ 435	\$ 746
125600 3R	License Confirmation Letter \$10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125600 5X	Cite and Fine	\$ 7,400	\$ 7,900	\$ 5,000	\$ 7,269	\$ -	\$ 9,263	\$ 13,467
125600 92	Prior Year Adj	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125700		\$ 210,678	\$ 303,418	\$ 246,330	\$ 374,825	\$ 295,000	\$ 225,420	\$ 343,493
125700 00	Other Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125700 F2	HAD Acct-Written Exam Fee \$225	\$ 55,425	\$ 81,000	\$ 57,150	\$ 87,975	\$ -	\$ 56,025	\$ 86,243
125700 F3	HAD Acct-Practical Exam Fee \$500	\$ 76,000	\$ 115,000	\$ 110,000	\$ 165,500	\$ -	\$ 93,500	\$ 140,675
125700 3N	Initial App Fee - \$75	\$ 13,350	\$ 19,575	\$ 14,175	\$ 21,750	\$ -	\$ 13,200	\$ 20,254
125700 3P	Initial License - \$280	\$ 24,695	\$ 31,135	\$ 26,600	\$ 47,040	\$ -	\$ 28,000	\$ 49,516
125700 3S	CE Provider App - \$50	\$ 17,550	\$ 25,750	\$ 18,550	\$ 24,500	\$ -	\$ 16,350	\$ 21,594
125700 38	Initial Temp Lic \$100	\$ 1,500	\$ 1,600	\$ 1,600	\$ 1,900	\$ -	\$ 800	\$ 950
125700 39	Initial Branch Lic \$25	\$ 9,000	\$ 11,000	\$ 7,400	\$ 9,700	\$ -	\$ 4,475	\$ 5,866
125700 42	Initial TraineeLicense - Hearing Aid Disp	\$ 12,200	\$ 17,400	\$ 11,300	\$ 16,800	\$ -	\$ 10,800	\$ 16,057
125700 56	Practical Exam - HAD \$285	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125700 59	Written Exam - HAD \$100	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125700 8V	App Fee-Dispensing Audiologist \$2	\$ 560	\$ 560	\$ 1,400	\$ 1,400	\$ -	\$ 2,240	\$ 2,240
125700 90	Over/Short Fees	\$ 8	\$ 8	\$ 85	\$ 190	\$ -	\$ 55	\$ 123
125700 91	Suspended Revenue	\$ 1,065	\$ 1,065	\$ -	\$ -	\$ -	\$ -	\$ -
125700 92	Prior Year Adj	\$ (675)	\$ (675)	\$ (1,930)	\$ (1,930)	\$ -	\$ (25)	\$ (25)
125800		\$ 470,665	\$ 558,107	\$ 463,028	\$ 545,099	\$ 558,000	\$ 485,535	\$ 575,105
125800 00	Renewal Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125800 3M	Temp Lic Renewal - \$100	\$ 15,800	\$ 18,600	\$ 14,700	\$ 18,600	\$ -	\$ 11,900	\$ 14,009
125800 3P	Annual Renewal - HAD \$280	\$ 207,960	\$ 246,682	\$ 209,368	\$ 244,368	\$ -	\$ 222,320	\$ 263,716
125800 3T	Branch Lic Renewal - \$25	\$ 12,300	\$ 14,675	\$ 14,400	\$ 15,850	\$ -	\$ 11,550	\$ 13,780
125800 3Y	Bien Ren - P&S - One Time Credit	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125800 8V	Bien Ren - Dispensing Audiologist	\$ 39,445	\$ 54,150	\$ 30,630	\$ 47,430	\$ -	\$ 36,290	\$ 49,819
125800 8W	Ann Ren-Dispensing Audiologist	\$ 194,880	\$ 224,000	\$ 193,930	\$ 218,850	\$ -	\$ 203,390	\$ 233,782
125800 90	Over/Short Fees	\$ -	\$ -	\$ -	\$ 1	\$ -	\$ -	\$ -
125800 C1	Automated Revenue Refund Claim	\$ 280	\$ -	\$ -	\$ -	\$ -	\$ 85	\$ -
125900		\$ 3,475	\$ 4,625	\$ 2,850	\$ 3,800	\$ 4,000	\$ 3,675	\$ 4,852
125900 00	Deliq. Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125900 3J	Delq. Ren - HAD \$25	\$ 1,250	\$ 1,825	\$ 1,175	\$ 1,600	\$ -	\$ 1,425	\$ 1,940
125900 3K	Delq. Ren - Temp Lic HAD \$25	\$ 250	\$ 350	\$ 250	\$ 325	\$ -	\$ 550	\$ 715

125900 3L	Delq. Ren - Branch Lic \$25	\$ 1,200	\$ 1,400	\$ 725	\$ 825		\$ 975	\$ 1,109
125900 8V	Delq. Ren - Dispensing Audiologist	\$ 775	\$ 1,050	\$ 700	\$ 1,050		\$ 725	\$ 1,088
142500		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 90	Misc Services to the Public	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
150300		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 00	Income from Surplus Invest.	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
150500		\$ -	\$ -	\$ -	\$ 8,084	\$ -	\$ -	\$ -
150500 00	Income From Interfund Loan	\$ -	\$ -	\$ -	\$ 8,084		\$ -	\$ -
160400		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
160400 00	Sale of Fixed Assets	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
161000		\$ -	\$ -	\$ 635	\$ 675	\$ -	\$ 6,085	\$ 6,085
161000 02	Revenue Canceled Warrants	\$ -	\$ -	\$ 635	\$ 675		\$ 6,085	\$ 6,085
161400		\$ 50	\$ 130	\$ 125	\$ 125	\$ -	\$ -	\$ -
161400 FT	Misc Revenue FTB Collection	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
161400 TB	Misc Revenue FTB	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
161400 00	Misc Revenue	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
161400 90	Misc Income	\$ -	\$ 80	\$ -	\$ -		\$ -	\$ -
161400 91	Dishonored Check Fee	\$ 50	\$ 50	\$ 125	\$ 125		\$ -	\$ -
302080		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
302080 00	Tr From Hearing Aid Dispensers'	\$ -	\$ -	\$ -	\$ -		\$ -	\$ -
Totals Revenue:		\$ 693,633	\$ 877,685	\$ 719,963	\$ 942,372	\$ 860,000	\$ 731,813	\$ 945,326
Total:		\$ 696,202	\$ 880,151	\$ 720,831	\$ 943,485	\$ 860,000	\$ 732,303	\$ 946,166

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board - 0376
BUDGET REPORT
FY 2016-17 EXPENDITURE PROJECTION

FISCAL MONTH 9

OBJECT DESCRIPTION	FY 2015-16		FY 2016-17				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (MONTH 13)	EXPENDITURES 3/31/2016	STONE 2016-17	EXPENDITURES 3/31/2017	SPENT	TO YEAR END	BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	446,072	331,209	507,000	340,795	67%	501,356	5,644
Statutory Exempt (EO)	87,228	62,644	82,000	65,196	80%	94,456	(12,456)
Temp Help Reg (Seasonals)	33,634	33,634	1,000	0	0%	4,800	(3,800)
Temp Help (Exam Proctors)	1,114	478	0	517	0%	776	(776)
Board Member Per Diem	0	0	0	0	0%	0	0
Committee Members (DEC)	4,500	3,500	6,000	3,800	63%	4,886	1,114
Overtime	20,036	15,675	5,000	11,477	230%	14,670	(9,670)
Staff Benefits	263,532	198,962	296,000	201,316	68%	295,441	559
TOTALS, PERSONNEL SVC	856,116	646,102	897,000	623,101	69%	916,384	(19,384)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	12,471	9,051	45,000	9,715	22%	13,386	31,614
Fingerprint Reports	29,400	14,014	28,000	21,923	78%	32,000	(4,000)
Minor Equipment	827	827	2,000	4,400	220%	5,000	(3,000)
Printing	6,836	1,773	25,000	6,075	24%	7,000	18,000
Communication	4,630	2,855	18,000	3,959	22%	6,420	11,580
Postage	25,059	18,232	24,000	18,282	76%	25,128	(1,128)
Insurance	0	0	0	0	0%	0	0
Travel In State	35,799	22,843	24,000	21,759	91%	34,100	(10,100)
Travel, Out-of-State	0	0	0	0	0%	0	0
Training	50	50	7,000	420	6%	420	6,580
Facilities Operations	63,939	68,783	78,000	63,214	81%	63,543	14,457
Utilities	0	0	0	0	0%	0	0
C & P Services - Interdept.	21,784	21,784	24,000	0	0%	0	24,000
C & P Services - External	1,200	0	0	0	0%	0	0
DEPARTMENTAL SERVICES:							
Departmental Pro Rata	119,837	128,250	185,000	138,753	75%	185,000	0
Admin/Exec	107,886	81,000	117,000	86,247	74%	117,000	0
DOI-ProRata Internal	2,949	2,250	3,000	2,250	75%	3,000	0
Communications Division	7,000	5,250	17,000	12,753	75%	17,000	0
PPRD Pro Rata	0	0	1,000	747	0%	1,000	0
INTERAGENCY SERVICES:							
Interagency Services	0	0	29,000	0	0%	0	29,000
IA w/ OPES	10,214	10,214	60,000	66,581	111%	66,581	(6,581)
Consolidated Data Center	279	197	10,000	419	4%	593	9,407
DP Maintenance & Supply	6,696	3,754	17,000	2,214	13%	3,949	13,051
Central Admin Svc-ProRata	146,443	109,832	0	0	0%	0	0
EXAM EXPENSES:							
Exam Supplies	0	0	0	0	0%	0	0
Exam Freight	0	0	0	0	0%	0	0
Exam Site Rental	1,618	1,618	8,000	3,950	49%	3,950	4,050
C/P Svcs-External Expert Administrative	28,152	28,152	25,000	12,594	50%	12,594	12,406
C/P Svcs-External Expert Examiners	0	0	0	0	0%	0	0
C/P Svcs-External Subject Matter	101,618	59,133	38,000	49,036	0%	84,267	(46,267)
ENFORCEMENT:							
Attorney General	189,705	132,283	232,000	88,175	38%	232,231	(231)
Office Admin. Hearings	28,530	19,123	22,000	22,111	101%	40,000	(18,000)
Court Reporters	1,094	594	0	489	0%	1,000	(1,000)
Evidence/Witness Fees	15,649	10,164	7,000	3,150	45%	10,000	(3,000)
DOI - Investigations	336,333	256,500	148,000	110,997	75%	148,000	0
MISC:							
Major Equipment	0	0	6,000	0	0%	6,000	0
Other - Clothing & Pers Supp	0	0	0	0	0%	0	0
Special Items of Expense	0	0	0	0	0%	0	0
Other (Vehicle Operations)	0	0	0	0	0%	0	0
TOTALS, OE&E	1,305,998	1,008,526	1,200,000	750,213	63%	1,119,162	80,838
TOTAL EXPENSE	2,162,114	1,654,628	2,097,000	1,373,314	65%	2,035,547	61,453
Sched. Reimb. - Fingerprints	(30,184)	(10,878)	(31,000)	(24,059)	78%	(31,000)	0
Sched. Reimb. - Other	(6,110)	(3,995)	(2,000)	(3,055)	153%	(2,000)	0
Distributed	0	0	0	0	0%	0	0
Unsched. Reimb. - Other	(25,398)	(19,621)	0	(18,304)	0%	0	0
NET APPROPRIATION	2,100,422	1,620,134	2,064,000	1,327,896	64%	2,002,547	61,453
SURPLUS/(DEFICIT):							3.0%

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

LICENSES ISSUED	FY11/12	FY12/13	FY13/14	FY14/15	FY15/16	FY16/17
						Qtr 1-3
AU	55	76	57	89	48	47
DAU	20	19	UA	UA	26	10
AUT	1	1	0	0	0	0
SLP	911	1056	974	1143	1352	993
SPT	0	0	0	0	0	0
SLPA	346	407	325	550	606	423
RPE	667	727	702	836	834	725
AIDE	44	51	40	48	44	60
CPD	16	9	15	17	22	12
HAD Permanent	91	84	49	92	140	81
HAD Trainee	94	95	139	145	180	114
HAD Licensed in Another State	6	7	5	9	16	13
HAD Branch	192	132	282	426	407	192
TOTAL LICENSES ISSUED	2443	2664	2588	3355	3675	2670

LICENSEE POPULATION	FY11/12	FY12/13	FY13/14	FY14/15	FY15/16	FY16/17
						* 03/31/17
AU	595	609	584	612	556	702
DAU	930	942	971	988	1,045	1,201
<i>Both License Types</i>	<i>1,525</i>	<i>1,551</i>	<i>1,555</i>	<i>1,600</i>	<i>1,601</i>	<i>1,903</i>
AUT	0	0	0	0	0	0
SLP	12,020	12,696	13,285	13,967	14,860	17,667
SPT	0	0	0	0	0	0
SLPA	1,529	1,771	1,969	2,343	2,795	3,727
RPE	665	682	768	802	806	1,202
AIDE	181	120	119	124	133	226
HAD	938	946	913	948	996	1,160
HAD Trainees	97	95	145	160	158	233
HAD Licensed in Another State	6	9	8	7	18	21
HAD Branch Office	627	653	710	821	963	1,344
TOTAL LICENSEES	17,588	18,523	19,472	20,772	22,330	27,483

* New Computation: includes delinquent, inactive, and valid licenses;
CE not adequate; cite/fine holds

February 4, 2017 Hearing Aid Dispensers Practical Examination

Candidate Type	Number of Candidates	Passed	%	Failed	%
Applicants with Supervision (Temporary License)					
HA	24	17	71%	7	29%
AU	2	1	50%	1	50%
RPE					
Aide					
Applicants Licensed in Another State (Temporary License)					
HA	1	1	100%		
AU					
Applicants without Supervision					
HA	6	6	100%		
AU	12	11	92%	1	8%
RPE					
Total Number of Candidates		Passed	%	Failed	%
	45	36	80%	9	20%

Speech-Language Pathology Audiology Hearing Aid Dispensers Board

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
COMPLAINTS AND CONVICTIONS	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Complaints Received	86	41	56	41	74	43	56	45
Convictions Received	6	29	4	27	27	58	12	60
Average Days to Intake	2	2	31	31	2	2	2	2
Closed	104	69	107	46	109	130	50	82
Pending	100	30	55	56	46	31	60	54

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

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
INVESTIGATIONS Desk	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	91	68	59	64	101	101	68	105
Closed	84	63	89	41	107	124	47	80
Average Days to Complete	458	128	339	250	107	138	63	67
Pending	80	28	46	48	42	30	54	43

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
INVESTIGATIONS DOI	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Assigned	12	5	2	3	0	2	4	4
Closed	20	5	15	2	2	6	3	2
Average Days to Complete	451	503	722	527	392	382	155	419
Pending	19	2	6	3	4	1	6	11

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
ALL TYPES OF INVESTIGATIONS	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Closed Without Discipline	93	60	83	37	93	112	45	76
Cycle Time - No Discipline	470	152	347	234	74	115	62	53

Average cycle time from complaint receipt to closure of the Does not include cases sent to the AG or other forms of formal DCA Performance Measure: Target 90 Days.

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
CITATIONS/Cease&Desist	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Issued	7	3	3	8	4	5	7	6
Avg Days to Complete Cite	358	453	292	188	195	305	111	48
Cease & Desist Letter	9	0	5	1	0	1	0	0

Speech-Language Pathology Audiology Hearing Aid Dispensers Board

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
ATTORNEY GENERAL CASES	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Pending at the AG	9	13	17	13	18	16	13	4
Accusations Filed	3	6	5	6	8	19	1	3
SOI Filed	0	0	0	0	2	2	0	0
Acc Withdrawn, Dismissed, Declined	0	0	0	0	1	0	0	1
SOI Withdrawn, Dismissed, Declined	2	1	1	1	0	0	1	1
Average Days to Discipline	703	617	1336	234	888	507	859	979

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

	FISCAL YEAR 2013 - 2014		FISCAL YEAR 2014 - 2015		FISCAL YEAR 2015 - 2016		Quarter 1-3 2016 - 2017	
ATTORNEY GENERAL FINAL OUTCOME	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU	HAD	SP/AU
Probation	4	0	1	1	1	5	4	7
Surrender of License	1	1	0	1	1	1	1	1
License Denied (SOI)	0	0	0	0	0	0	0	0
Suspension & Probation	0	0	0	0	0	1	0	0
Revocation-No Stay of Order	0	1	1	3	1	2	0	2
Petition for Reinstatement Denied	1	0	0	0	0	0	0	0
Petition for Reconsideration Granted	0	0	0	0	0	1	0	0



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Update on Board's Sunset Review

The Board submitted its responses to the Senate and Assembly Sunset Review Committees regarding the background document and issues raised during the 2016 Sunset Review. Each of you were provided with the Board's responses. If information becomes available prior to the Board meeting, staff will provide an update.

ACTION REQUESTED

The item is informational.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Speech-Language Pathology Practice Committee Report

Committee Chair Patti Solomon-Rice will provide an oral report on the May 11, 2017 Speech-Language Pathology Practice Committee meeting.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Update on Speech-Language Pathology Services Credential Variable Term Waiver Granted by the Commission on Teacher Credentialing and Supervision of Speech-Language Pathology Assistants

Board Member Dee Parker will provide an oral update on this item if there is new information to report.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Update on the Federal Trade Commission (FTC) Hearing on Over-the-Counter Hearing Aids

Board Chair Alison Grimes will provide an oral update on the FTC workshop, "Now Hear This: Competition, Innovation, and Consumer Protection Issues in Hearing Health Care," which she attended in Washington D.C. on April 18, 2017.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Discussion and Possible Action on the Board's Development of a Telecoil Fact Sheet for Consumers

BACKGROUND

At its November 2016 meeting, the Board discussed the need to develop a consumer fact sheet that explains general aspects of hearing aids and their uses, including telecoils. The fact sheet could be useful in helping consumers better understand hearing aid features and their uses. At the February 2017 meeting, the Board asked and has received input from representatives of the Hearing Loss Association of America (HLAA). The following are their suggested changes and edits:

Section #2—There is no mention of Analog hearing aids. I know that there are some users that still prefer these. Are they being phased out completely?

Section #3— I have never heard of hearing aids referred to as full or half shell. I have heard in the ear, in the canal, behind the ear,... Is there a difference in terms used by consumers and by professionals?

There should be a statement indicating that the remaining features are available, but are not included in all hearing devices. Sometimes these features may be included, but not activated and that consumers should be told if this is the case, especially with telecoils.

Section #5—Telecoils are not always available on the smallest hearing devices. When available, it is advisable to include them for future uses.

Section #6—This section implies that all hearing aids have 2 microphones. Is this true?

Many of us agreed that the consumer fact sheets should include a series of fact sheets.

Or several sections with different topics:

- hearing loss defined and explained
- hearing loss glossary of terms
- hearing aids/telecoils/bluetooth/features etc.

- accessibility in public venues (how to access assistive devices in public venues with and without hearing aids.)

There could also be mention on the opportunities for peer support via HLAA and other hearing loss support groups in the state. I am aware of a couple of groups for cochlear implant wearers as well as hearing aid consumers.

ACTION REQUESTED

Review and discuss options for development of the consumer fact sheet regarding hearing aids.

Consumer Fact Sheet:

Hearing Loss and Hearing Aids

Types of Hearing Loss:

Sensorineural – damage in the inner ear, permanent and typically progressive; a number of causes including genetics, noise exposure, ototoxic drugs, aging.

Conductive - middle or outer ear pathologies including ear infections, impacted wax, cholesteatoma, tympanic membrane perforation

Mixed – a hearing loss from a combination of sensorineural and conductive causes.

Digital and Programmable Hearing Aids:

Today's hearing aids operate with the use of a computer chip that can amplify speech and reduce background noise. Digital aids can be fully automated or can have multiple listening programs for different environments.

Styles of Hearing Aids

Hearing aid styles come in custom models that include full-shell, half-shell, canal and completely-in-the-canal. Hearing aids can also be behind-the ear in small vs. large versions.

Personal Amplification Systems (PSAPs)

These are over-the-counter devices with fewer features than those found in hearing aids. They are less sophisticated and less costly. There are pros and cons for all styles.

Telecoils

Telecoils are copper wires that are coiled inside of a hearing aid. It allows hearing aids to pick up magnetic spillage from a telephone so it can be amplified, as well as picking up electromagnetic emissions from a looped room.

Directional Microphones

There are two microphones on aids that amplify differentially in a noisy environment. That is, in quiet both microphones are working. In a noisy environment, the back microphone typically shuts off so that sound is louder in front than behind.

Feedback Suppression

Hearing Aid circuits today can reduce unwanted sound or squeals that come from a hearing aid with insertion or removal of an aid. It also suppresses feedback when holding a phone near the aid.

Low Battery Warning System

When the battery in a hearing aid nears the end of its life, the aid will emit a warning sound to tell the wearer that it is time to change the battery.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	Hearing Aid Dispenser (HAD) Advertising Regulations

BACKGROUND

At its May 2016 meeting, the Board approved language to amend the HAD advertising regulations. Board staff and DCA Legal Counsel have been working to make changes necessitated by current legal issues and the overall need for clarity by licensees and consumers. At its February 2017 meeting, the Board decided to continue working on the HAD advertising proposed language and delegated the task to Board members Amnon Shalev and Marcia Raggio.

Included in your materials is an updated version for your review and approval.

ACTION REQUESTED

Staff recommends that the Board review, edit, and approve the recommended changes to the modified proposed language regarding HAD advertising regulations for submission to the Office of Administrative Law.

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

Title 16, Division 13.3 Hearing Aid Dispensers Regulations Article 5. Advertising

Proposed Language

Amend Section 1399.127 of Article 5 of Division 13.3 of Title 16 as follows:

§ 1399.127. Advertising for the purpose of fitting and selling hearing aids

(a) A person licensed to dispense hearing aids dispenser may advertise ~~any goods or fitting and selling hearing aids or other~~ services authorized to be provided by such license in a manner authorized by Section 651 of the Business and Professions Code, ~~so~~ **as** long as such advertising does not promote the unnecessary or excessive use of such goods and/or services.

(b) An advertisement for fitting and selling hearing aids is false, fraudulent, misleading, or deceptive in violation of ~~violates~~ Section 651 if it violates any provision of Article 8 of chapter 5.3 of Division 2 of the Business and Professions Code, ~~when it:~~

(c) Advertising by a person licensed **d** to dispense hearing aids for the purpose of fitting and selling hearing aids shall include the following information:

(1) The name and established retail business address(es) of the licensed hearing aid dispenser as required by Business and Professions Code Section 2538.33 and registered under Business and Professions Code Section 2538.34 or the name and address of the principal place of business of business of the licensed dispensing audiologists as required by Business and Professions Code section 2539.4(c);

(2) The license number of the person licensed to dispense hearing aids, including the letters HA, HT, HTL, or DAU, as appropriate.

(d) **T** the following other information, if included on an advertisement for fitting and selling hearing aids, is false, fraudulent, misleading, and /or likely to deceive:

(1) An educational degree that does not specify the exact degree and field in which the degree was earned.

(A) The title "Dr." when that does not specify **the exact field in which the Dr. degree was earned. (MD exempt)**
~~the degree is a non-medical doctorate.~~

(2) A job title or dispenser's certification by a professional organization that is not clearly identified by the full job title or certification and name of certifying organization.

(e) An Advertisement disseminated by a licensed hearing aid dispenser is likely to deceive, mislead, or fail to disclose material facts for the following:

(1) The advertisement is for a hearing test and does not clearly state that the test is being performed to properly fit and sell hearing aids.

(2) The description of services in the advertisement is so broad as to violate Business and Professions Code Section 2530.3(b).

~~(f) It is a misrepresentation of fact when an advertisement leads one to believe that the offer of new technology or a new hearing aid is part of a research study when the technology and/or hearing aid is currently on the market.~~

(f) An advertising that leads one to believe that the offer is part of a research and/or study is not misleading if there is no selling of hearing aids occurred as a result for said advertising.

~~(g) The use of rebate coupons or rebate checks without informing the consumer of all variable and material factors relating to the actual price of the device and discounts or sales that are currently available on that device is a false, fraudulent, misleading, or deceptive advertisement.~~

~~(h) Directly soliciting consumers with preset appointment information when the consumer has not requested such an appointment is a false, fraudulent, misleading, or deceptive advertisement.~~

~~(i) An advertisement of price must be exact and fully disclose all variables and other material factors.~~

~~(1) An advertisement of price shall not be used to entice the consumer into a more costly transaction than the advertised item or service at the advertised price.~~

~~(j) An advertisement for price that uses a price comparison must be based on verifiable data. Such data must be retained by the licensee for one year after the advertisement is published.~~

~~(k) An advertisement that uses a discount must:~~

~~(1) List the dollar amount of the non-discounted fee for the hearing aid or provide consumers with a method to ascertain the actual price, like the Manufacturer's Suggested Retail Price; or~~

~~(2) List the dollar amount of the discount fee or the percentage of the discount for the specific device; and~~

~~(3) Inform the public of the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer; and~~

~~(4) Inform the specific groups who qualify for the discount of any other terms and conditions or restrictions for qualifying for the discount.~~

~~(l) Any national advertisement run in California shall comply with California laws and regulations.~~

(1) Exempt from said advertising is paragraph (c) of this section.

(2) A hearing aid dispenser will be held liable for sales resulted from a national advertisement that violate this section.

~~(1) Is not exact, and any conditions or other variables to an advertised price are not disclosed.~~

~~(2) Includes a statement of price comparison that is not based upon verifiable data.~~

~~(3) Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.~~

When advertising a specific hearing aid model:

Correct:	50% off Acme Model 12
Regularly \$1000, Now \$500	
Incorrect:	50% off Acme hearing aid

When advertising a category of hearing aids (e.g. all models from one manufacturer, or all BTE models):

Correct:	50% off Manufacturer's Suggested Retail Price
All Acme Hearing Aids	
Incorrect:	Acme Hearing Aids - 50% Off

Correct:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids Offer good January 1-7, 1998 (or Offer expires January 7, 1998)
Incorrect:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids

~~(4) Utilizes a business name that is so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.~~

Correct:	Delta Hearing Aid Center
Incorrect:	Delta Hearing Center

~~(5) Advertises hearing tests without qualification as to the nature of the hearing testing that may be performed by a hearing aid dispenser.~~

Correct:	Test to determine if you could be helped by a hearing aid
Incorrect:	Hearing test

~~(6) Includes sending to a consumer preset appointment information or "rebate coupons" that resemble checks as part of a direct mail solicitation.~~

~~(7) Includes an educational degree but does not list the degree and field, or includes the title "Dr." where the degree is a non-medical doctorate and the advertisement does not disclose that fact.~~

Correct:	John Doe, Ph.D. in Audiology	Jane Doe, M.A. in Audiology
	John Doe, Ph.D. (Audiology)	Jack Doe, B.A. (Audiology)
Incorrect:	Dr. John Doe	Jane Doe, M.A.
	Dr. John Doe (Audiology)	Jack Doe, B.A.

~~(8) Includes abbreviations for job titles or job certifications as letters after a name where those letters do not represent an academic degree or credential.~~

~~(9) Refers to a dispenser's certification by a professional organization but either does not include the name of the certifying organization or, includes the name written in a manner not easily understood by consumers.~~

Correct:	John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
NB-HIS, Certified by the National Board of Certification in Hearing Instrument Sciences	
Incorrect:	John Doe, NB-HIS

~~(10) Includes the term "specialist" when referencing licensure without including the title "hearing aid dispenser."~~

Correct:	Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Dispenser	
John Doe, Hearing Instrument Specialist	
Hearing Aid Dispenser Lic. No. HA-xxxx	
Incorrect:	Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Specialist	

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 651, 651.3, 2533, and 2539.1, Business and Professions Code.

May 2016 Version – Staff-recommended

**PEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD**

**Title 16, Division 13.3
Hearing Aid Dispensers Regulations
Article 5. Advertising
Proposed Language**

Amend Section 1399.127 of Article 5 of Division 13.3 of Title 16 as follows:

(a) A person licensed to dispense hearing aids dispenser may advertise any approved goods and/or services allowed by the authorized to be provided by such license in a the manner authorized by Section 651 of the B & P Code, as long as such the advertising does not promote the unnecessary or excessive use of such goods and/or services.

(b) False or misleading advertising includes, but is not limited to, advertising which violates ay provision of Article 8 of Chapter 5.3 of Division 2 of the B & P Code or which does not comply with any of the following requirements. Advertisement of behalf of a licensee must do the following: An advertisement violates Section 651 of the Code when it

(1) The advertisement must include the following information:

(A) The hearing aid dispenser's name and address as it appears on the hearing aid dispensers' license; Is not exact, and any conditions or other variables to an advertised price are not disclosed.

(B) The hearing aid dispenser's license number, including the letters "HAD" or "DAU", as appropriate.

(2) If advertising for a hearing test, a hearing aid dispenser must state that the test is being performed to properly fit and sell hearing aids; Includes a statement of price comparison that is not based upon verifiable data.

(3) If including an educational degree, the degree and field must specific. The use of the title "Dr." is not adequate for identifying the degree when the degree is a non-medical doctorate. Advertises a discount in a false or misleading manner, including but not limited to, failing to disclose the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer.

(4) If including a job title or dispenser's certification by a professional organization, include the entire, fully spelled name of the job title or certification and certifying organization must be included. Any job title, certification, or similar words listed in the advertisement, must represent an actual job title, credential, or certification, and must not be misleading. Any certifications obtained must be those issued upon successful completion of an examination based on academic principles.

(5) Do not use a business name that so broad as to suggest comprehensive and diagnostic hearing services. Advertisements and business names must not include the

word “Hearing” without being immediately followed by the word “Aid” unless the dispenser is also a licensed as a physician, surgeon or audiologist.

(6) Do not include information that suggests the offer of new technology is part of a research project when it is not. Includes sending to a consumer preset appointment information or “rebate coupons” that resemble checks as part of a direct mail solicitation.

(7) For a licensed hearing aid dispenser, do not include the term “specialist(s)” when referencing licensure without including the title “hearing aid dispenser”. Includes an educational degree but does not list the degree and field, or includes the title “Dr.” where the degree is a non-medical doctorate and the advertisement does not disclose that fact.

(8) Does not include informing a consumer, preset appointment information or “rebate coupons” that resemble checks as part of a direct mail solicitation. Includes abbreviations for job titles or job certifications as letters after a name where those letters do not represent an academic degree or credential.

(9) An advertisement of a price must do all of the following:

(A) Be exact, and disclose any conditions or any other variables to an advertised price;

(B) When including price comparison, base such comparison on verifiable data. Such data must be retained by the licensee for one year after the advertisement is published;

(10) An advertisement of a discount must:

(A) List either the dollar amount of the non-discounted fee for the hearing aid or provide consumers with a method to ascertain the actual price, like Manufacturer’s Suggested Retail Price;

(B) List either the dollar amount of the discount fee or the percentage of the discount for the specific device;

(C) Inform the public of the dates on which the sale or discount price will be in effect if the sale or discount price is a limited time offer; and

(D) Inform the specific groups who qualify for the discount of any other terms and conditions or restrictions for qualifying for the discount.

(11) An advertisement shall not be used to entice the consumer into a more costly transaction than the advertised item or service at the advertised price.

(12)(c) Any national advertisement published in California shall comply with all applicable state and federal regulations.

~~When advertising a specific hearing aid model:~~

Correct:	50% off Acme Model 12
Regularly \$1000, Now \$500	
Incorrect:	50% off Acme hearing aid

~~When advertising a category of hearing aids (e.g. all models from one manufacturer, or all BTE models):~~

Correct:	50% off Manufacturer's Suggested Retail Price
All Acme Hearing Aids	
Incorrect:	Acme Hearing Aids – 50% Off
Correct:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids Offer good January 1-7, 1998 (or Offer expires January 7, 1998)
Incorrect:	50% off Manufacturer's Suggested Retail Price, All Hearing Aids

~~(4) Utilizes a business name that is so broad as to connote comprehensive and diagnostic hearing services, unless the dispenser is also licensed as a physician or audiologist.~~

Correct:	Delta Hearing Aid Center
Incorrect:	Delta Hearing Center

~~(5) Advertises hearing tests without qualification as to the nature of the hearing testing that may be performed by a hearing aid dispenser.~~

Correct:	Test to determine if you could be helped by a hearing aid
Incorrect:	Hearing test

Correct:	John Doe, Ph.D. in Audiology	Jane Doe, M.A. in Audiology
	John Doe, Ph.D. (Audiology)	Jack Doe, B.A. (Audiology)
Incorrect:	Dr. John Doe	Jane Doe, M.A.

	Dr. John Doe (Audiology)	Jack Doe, B.A.
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~~(9) Refers to a dispenser's certification by a professional organization but either does not include the name of the certifying organization or, includes the name written in a manner not easily understood by consumers.~~

Correct:	John Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
NB-HIS, Certified by the National Board of Certification in Hearing Instrument Sciences	
Incorrect:	John Doe, NB-HIS

~~(10) Includes the term "specialist" when referencing licensure without including the title "hearing aid dispenser."~~

Correct:	Jane Doe, Hearing Aid Dispenser Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Dispenser	
John Doe, Hearing Instrument Specialist	
Hearing Aid Dispenser Lic. No. HA-xxxx	
Incorrect:	Jane Doe, Hearing Aid Specialist Lic. No. HA-xxxx
Jack Doe, Licensed Hearing Aid Specialist	

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 651, 651.3 and 2533, Business and Professions Code.



MEMORANDUM

DATE	May 1, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	General Rules Regarding Fingerprint Requirements

BACKGROUND

At its March 2010 meeting, the Board approved language to implement general rules regarding fingerprint requirements. Board staff and DCA Legal Counsel have been working to make changes necessitated by current legal issues and the overall need for clarity by licensees and consumers.

Included in your materials is an updated version for your review and approval.

ACTION REQUESTED

Staff recommends that the Board review, edit, and approve the recommended changes to the modified proposed language regarding General Rules Regarding Fingerprint Requirements regulations for submission to the Office of Administrative Law.

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING
DISPENSERS BOARD**

PROPOSED LANGUAGE

The Proposed Language is all new text.

1. Add Section 1399.112 to Title 16 of the California Code of Regulations, Division 13.3, Article 2, to read as follows:

Section 1399.112. Requirements for Renewal of License.

Comment [nm1]: Consider § 1399.112, since that's been repealed.

(a) For a license that expires after June 30, 2018, as a condition of renewal, an applicant for renewal not previously electronically fingerprinted by the Board, or for whom an electronic record of the submission of fingerprints has never or no longer exists in the Department of Justice's criminal offender record identification database for use by and accessible to the Board, is required to furnish to the Department of Justice, as directed by the board, a full set of electronic fingerprints for the purpose of conducting a criminal history record check and to successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice. The licensee shall certify on the renewal application whether the fingerprints have been electronically submitted.

(b) The licensee shall pay any costs of complying with (a).

(c) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.

(d) A licensee directed by the Board to comply with the requirement for fingerprint submission in (a) shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice, or a receipt evidencing that the licensee's fingerprints were taken.

Comment [nm2]:

(e) For a license that expires after June 30, 2018, as a condition of license renewal, a licensee shall disclose whether he or she, since he or she last renewed his or her license, has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances.

Comment [nm3]: You may want to raise this threshold.

(f) For a license that expires after June 30, 2018, as a condition of renewal, a licensee shall disclose on the renewal application whether, since he or she last renewed his or her license, he or she has had a license disciplined by a government agency or other disciplinary body. Discipline includes, but is not limited to, suspension, revocation, voluntary surrender, probation, reprimand, or any other restriction on a license or registration held

(g) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(h) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 144 & 3352 Business and Professions Code, and Section 11105 Penal Code.

2. Add Section 1399.151.2 to Title 16 of the California Code of Regulations, Division 13.4, Article 2, to read as follows:

Comment [nm4]: This is my suggestions of where this should fall in the reg structure.

Division 13.4 Article 8.

General Rules Regarding Fingerprint Requirement

Section 1399.157.3. Response to Board Inquiry.

Comment [nm5]: Same comment. I think you're going to want to take this section out, and put the requirements under an article related to applications.

If the Board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code

Section 1399.157.4. Fingerprint and Disclosure Requirements for Renewal of License.

Comment [nm6]: Follow the comments above.

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.

(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license, must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol or dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.

(c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements. (d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING
DISPENSERS BOARD
PROPOSED LANGUAGE**

**ARTICLE 2
APPLICATIONS**

Adopt Sections 1399.128-1399.128.I of Division 13.3- and Sections 1300.157.3-1399.157.4 of Division 13.4- Title 16 of the California Code of Regulations to read as follows:

**Division 13.3 Article 5.
General Rules Regarding Fingerprint Requirement**

Section 1399.128. Response to Board Inquiry.

If the board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 3352 & 144 Business and Professions Code, and Section 11105 Penal Code

Section 1399.128.1. Fingerprint and Disclosure Requirements for Renewal of License.

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.

(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(a) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions

under \$300 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.

(b) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements. (d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 3328 Business and Professions Code. Reference: Sections 3352 & 144 Business and Professions Code, and Section 11105 Penal Code

Division 13.4 Article 8.
General Rules Regarding Fingerprint Requirement

Section 1399.157.3. Response to Board Inquiry.

If the Board or its designee requests a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 2531.95 Business and Professions Code. Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code

Section 1399.157.4. Fingerprint and Disclosure Requirements for Renewal of License.

(a) A licensee, for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice within 60 days of receipt of notification of such request by the Board.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) Any licensee notified by the Board of the requirement for fingerprint submission shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section by forwarding a copy of the receipt to the Board demonstrating the licensee's fingerprints were taken.

(3) This requirement is waived if the licensee is renewed in an inactive status, or is actively serving in the military outside the country. However, a licensee who seeks to reactivate an inactive license, must first comply with the fingerprint submission process as noted above in order to be eligible to return the license to active status.

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of license renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$300 not involving alcohol or dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.

(c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements. (d) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 2531.95 Business and Professions Code.

Reference: Sections 2531.4 & 144 Business and Professions Code, and Section 11105 Penal Code



MEMORANDUM

DATE	May 2, 2017
TO	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Paul Sanchez, Executive Officer
SUBJECT	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 12 (Cooley D) State government: administrative regulations: review.

Location: Assembly Appropriations.

Status: 4/5/17 In committee: Set, first hearing. Referred to suspense file.

Summary: This bill would require every state office, agency, department, division, board, bureau, and commission to review existing regulations and revise or repeal inconsistent, overlapping, duplicative, and outdated provisions by January 1, 2020. This bill would also require the Business, Consumer Services, and Housing Agency to submit a report to the Governor and Legislature affirming compliance with these provisions. These provisions would remain in effect only until January 1, 2021.

AB 77 (Fong R) Regulations: effective dates and legislative review

Location: Assembly Appropriations.

Status: 4/26/17 - In committee: Set, first hearing. Referred to suspense file.

Summary: This bill would require the Office of Administrative Law, for each major regulation it approves, to submit a copy to the Legislature for review. Additionally, this bill would provide that a regulation does not become effective if the Legislature enacts a statute to override the regulation.

AB 241 (Dababneh) Personal information: privacy: state and local agency breach.

Location: Assembly Appropriations.

Status: 4/26/17 - In committee: Set, first hearing. Referred to suspense file.

Summary: This bill would require any state or local agency that is the source of a data breach where an individual's personal information is compromised, or believed to be compromised, to provide identity theft prevention and mitigation services at no cost to

the affected individuals for at least twelve months. The intent of this bill is to align state agency's responses following a data breach with those of businesses in the state to ensure California consumers receive identity theft and mitigation protections from both private and public entities.

AB 349 (McCarty) Department of Consumer Affairs: applicants for licensure: special immigrant visas.

Location: Assembly Appropriations.

Status: 4/27/17 - From committee: Do pass and re-refer to Com. on APPR. Re-referred to Com. on APPR.

Summary: This bill would require the programs under the Department of Consumer Affairs to expedite and assist with the initial licensure process for applicants holding a specified special immigrant visa.

AB 387 (Thurmond) Minimum Wage: health professionals: interns

Location: Assembly Appropriations.

Status: 3/30/17 - From committee: Do pass and re-refer to Com. on APPR. Re-referred to Com. on APPR.

Summary: This bill would expand the definition of "employer" for purposes of these provisions to include a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional, as defined.

AB 492 (Grayson) Public records: Department of Consumer Affairs: solicitation fees.

Location: Assembly.

Status: 4/27/17 - Read second time. Ordered to Consent Calendar.

Summary: This bill would require businesses or individuals who charge a fee for requested public documents from the Department on behalf of another, to include specified information on the document that is used to request the records. This bill would also limit charges that may be passed on to the consumer. This bill would authorize the Department to adopt regulations to specify the contents of the PRA solicitation document, and to investigate, and take action for violations of requirements of this bill.

AB 508 (Santiago) Health care practitioners: student loans.

Location: Assembly.

Status: 4/27/17 - Read second time. Ordered to Consent Calendar.

Summary: This bill would repeal existing law authorizing healing arts programs under the Department of Consumer Affairs to deny a license, or cite and fine a licensee for defaulting on certain federal student loans.

AB 612 (Rubio) Newborns and infants: hearing screening.

Location: Assembly Appropriations.

Status: 4/26/17 - In committee: Set, first hearing. Referred to suspense file.

Summary: Existing law requires the State Department of Health Care Services to implement a newborn and infant hearing screening program and to develop and implement a reporting and tracking system for newborns and infants tested for hearing loss. Existing law requires certain medical providers to report specified information to the department or the department's designee to be included in the department's reporting and tracking system.

This bill would require those providers to report that information electronically. The bill would require the department to develop and implement an electronic reporting and tracking system for newborns and infants tested for hearing loss and would require general acute care hospitals to maintain a newborn and infant data management system, as defined. The bill would make additional conforming changes.

AB 703 (Flora) Professions and vocations: licensees: fee waiver.

Location: Assembly Business and Professions.

Status: 3/2/17 - Referred to Committee on Business and Professions.

Summary: This bill would require that each board within the Department grant a fee waiver for an applicant's initial license if the applicant is married to, or in a domestic partnership or other legal union with an active duty member of the Armed Force. This applicant must hold a current license in the same profession or vocation in another state, district, or territory. This fee waiver would not cover renewals, additional licenses, a certificate, a registration, or a permit associated with the license, or for the application of an examination.

AB 827 (Rubio) Department of Consumer Affairs: high-skill immigrants: license information.

Location: Assembly Appropriations.

Status: 4/26/17 - In committee: Set, first hearing. Referred to suspense file.

Summary: This bill would require the Department to create an entity to provide high-skill immigrants with information relating to the application process with programs within the Department.

AB 1005 (Calderon) Department of Consumer Affairs.

Location: Assembly Appropriations.

Status: 5/2/17 - Read second time and amended.

Summary: This bill would require the Department's Office of Professional Examination Services to perform an occupational analysis of every license that requires an examination "in this state" to determine whether examinations should be offered in languages other than English. All occupational analyses and recommendations would be required to be

submitted to the Legislature by January 1, 2019.

AB 1707 (Assembly Committee on Business and Professions) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

Location: Assembly Appropriations.

Status: 4/26/17 - From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. Re-referred to Com. on APPR.

Summary: The Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2018, and subjects the board to review by the appropriate policy committees of the Legislature.

This bill would extend, until January 1, 2022, the operation of the provisions establishing the board and authorizing it to appoint an executive officer.

SB 27 (Morrell) Professions and vocations: licensees: military service.

Location: Senate Appropriations.

Status: 4/26/17 - From committee: Do pass and re-refer to Com. on APPR. Re-referred to Com. on APPR.

Summary: This bill would require each program within the Department of Consumer Affairs to waive initial application and license fees for honorably discharged veterans who served as an active duty member of the United States Armed Forces or the California National Guard.

SB 198 (Galgiani) Hearing aid dispensers: cerumen management.

Location: Senate Committee on Business, Professions and Economic Development.

Status: 4/20/17 - Hearing postponed by committee.

Summary: This bill would allow hearing aid dispensers to perform cerumen (ear wax) management for the sole purpose of inspecting the ears, making impressions, and fitting and maintaining hearing aids. This bill would also allow hearing aid dispensers to conduct a tympanometry test for the purpose of referral to a physician and surgeon for diagnosis or treatment.

SB 247 (Moorlach) Professions and Vocations: license requirement: business: surety bond requirement.

Location: Senate Committee on Business, Professions and Economic Development.

Status: 4/18/17 - Set for hearing April 25 in JUD. pending receipt.

Summary: Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, makes it unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. This bill repeals the license requirement of Hearing Aid Dispensers among many other changes to various licensure acts.



California

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AB-387 Minimum wage: health professionals: interns. (2017-2018)

Senate:

Assembly: 1st Cmt

Bill Status

Measure: AB-387
Lead Authors: Thurmond (A)
Principal Coauthors: -
Coauthors: -
Topic: Minimum wage: health professionals: interns.
31st Day in Print: 03/12/17
Title: An act to amend Section 1182.12 of the Labor Code, relating to wages.
House Location: Assembly
Introduced Date: 02/09/17
Committee Location: Asm Appropriations
Committee Hearing Date: 05/03/17

Type of Measure

Active Bill - In Committee Process
 Majority Vote Required
 Non-Appropriation
 Fiscal Committee
 State-Mandated Local Program
 Non-Urgency
 Non-Tax levy

Last 5 History Actions

Date	Action
03/30/17	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (March 29). Re-referred to Com. on APPR.
02/21/17	Referred to Com. on L. & E.
02/10/17	From printer. May be heard in committee March 12.
02/09/17	Read first time. To print.



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AB-387 Minimum wage: health professionals: interns. (2017-2018)

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Date Published: 02/09/2017 09:00 PM

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL

No. 387

Introduced by Assembly Member Thurmond

February 09, 2017

An act to amend Section 1182.12 of the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 387, as introduced, Thurmond. Minimum wage: health professionals: interns.

Existing law requires the minimum wage for all industries to not be less than specified amounts to be increased from January 1, 2017, to January 1, 2022, inclusive, for employers employing 26 or more employees and from January 1, 2018, to January 1, 2023, inclusive, for employers employing 25 or fewer employees, except when the scheduled increases are temporarily suspended by the Governor, based on certain determinations. Existing law defines an employer for purposes of those provisions to mean a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of another person. Payment of less than the established minimum wage is a misdemeanor.

This bill would expand the definition of "employer" for purposes of these provisions to include a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional, as defined.

Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1182.12 of the Labor Code is amended to read:

1182.12. (a) Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.

(b) Notwithstanding subdivision (a), the minimum wage for all industries shall not be less than the amounts set forth in this subdivision, except when the scheduled increases in paragraphs (1) and (2) are temporarily suspended under subdivision (d).

(1) For any employer who employs 26 or more employees, the minimum wage shall be as follows:

(A) From January 1, 2017, to December 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour.

(B) From January 1, 2018, to December 31, 2018, inclusive,—eleven dollars (\$11) per hour.

(C) From January 1, 2019, to December 31, 2019, inclusive,—twelve dollars (\$12) per hour.

(D) From January 1, 2020, to December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2021, to December 31, 2021, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2022, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

(2) For any employer who employs 25 or fewer employees, the minimum wage shall be as follows:

(A) From January 1, 2018, to December 31, 2018, inclusive,—ten dollars and fifty cents (\$10.50) per hour.

(B) From January 1, 2019, to December 31, 2019, inclusive,—eleven dollars (\$11) per hour.

(C) From January 1, 2020, to December 31, 2020, inclusive,—twelve dollars (\$12) per hour.

(D) From January 1, 2021, to December 31, 2021, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2022, to December 31, 2022, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2023, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

(3) For purposes of this subdivision, "employer" means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of ~~any person~~ *person, including any person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional.* For purposes of this subdivision, "employer" includes the state, political subdivisions of the state, and municipalities.

(4) For purposes of this subdivision, "allied health professional" has the same meaning as in Section 295p of Part F of Subchapter V of Chapter 6A of Title 42 of the United States Code.

~~(4)~~

(5) Employees who are treated as employed by a single qualified taxpayer under subdivision (h) of Section 23626 of the Revenue and Taxation Code, as it read on the effective date of this section, shall be considered employees of that taxpayer for purposes of this subdivision.

(c) (1) Following the implementation of the minimum wage increase specified in subparagraph (F) of paragraph (2) of subdivision (b), on or before August 1 of that year, and on or before each August 1 thereafter, the Director of Finance shall calculate an adjusted minimum wage. The calculation shall increase the minimum wage by the lesser of 3.5 percent and the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). The result shall be rounded to the nearest ten cents (\$0.10). Each adjusted minimum wage increase calculated under this subdivision shall take effect on the following January 1.

(2) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W is negative, there shall be no increase or decrease in the minimum wage pursuant to this subdivision on the following January 1.

(3) (A) Notwithstanding the implementation timing described in paragraph (1) of this subdivision, if the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June

30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent in the first year that the minimum wage specified in subparagraph (F) of paragraph (1) of subdivision (b) is implemented, the indexing provisions described in paragraph (1) of this subdivision shall be implemented immediately, such that the indexing will be effective on the following January 1.

(B) If the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent in the first year that the minimum wage specified in subparagraph (F) of paragraph (1) of subdivision (b) is implemented, notwithstanding any other law, for employers with 25 or fewer employees the minimum wage shall be set equal to the minimum wage for employers with 26 or more employees, effective on the following January 1, and the minimum wage increase specified in subparagraph (F) of paragraph (2) of subdivision (b) shall be considered to have been implemented for purposes of this subdivision.

(d) (1) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is fifteen dollars (\$15) per hour pursuant to paragraph (1) of subdivision (b), to ensure that economic conditions can support a minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether each of the following conditions is met:

(A) Total nonfarm employment for California, seasonally adjusted, decreased over the three-month period from April to June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in March, as reported by the Employment Development Department.

(B) Total nonfarm employment for California, seasonally adjusted, decreased over the six-month period from January to June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in December, as reported by the Employment Development Department.

(C) Retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending one month prior to the July 28 determination is less than retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending 13 months prior to the July 28 determination. The calculation for the condition specified in this subparagraph shall be made as follows:

(i) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the total retail sales (sales before adjustments) for the prior month derived from their daily retail sales and use tax reports.

(ii) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the monthly factor required to convert the prior month's retail sales and use tax total from all tax rates to a retail sales and use tax total from a 3.9375-percent tax rate.

(iii) The Department of Finance shall multiply the monthly total from clause (i) by the monthly factor from clause (ii) for each month.

(iv) The Department of Finance shall sum the monthly totals calculated in clause (iii) to calculate the 12-month July 1 to June 30, inclusive, totals needed for the comparison in this subparagraph.

(2) (A) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is fifteen dollars (\$15) per hour pursuant to paragraph (1) of subdivision (b), to ensure that the state General Fund fiscal condition can support the next scheduled minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether the state General Fund would be in a deficit in the current fiscal year, or in either of the following two fiscal years.

(B) For purposes of this subdivision, deficit is defined as a negative balance in the Special Fund for Economic Uncertainties, as provided for in Section 16418 of the Government Code, that exceeds, in absolute value, 1 percent of total state General Fund revenue and transfers, based on the most recent Department of Finance estimates required by Section 12.5 of Article IV of the California Constitution. For purposes of this subdivision, the estimates shall include the assumption that only the minimum wage increases scheduled for the following calendar year pursuant to subdivision (b) will be implemented.

(3) (A) (i) If, for any year, the condition in either subparagraph (A) or (B) of paragraph (1) is met, and if the condition in subparagraph (C) of paragraph (1) is met, the Governor may, on or before August 1 of that year,

notify the Legislature of an initial determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year.

(ii) If the Director of Finance certifies under paragraph (2) that the state General Fund would be in a deficit in the current fiscal year, or in either of the following two fiscal years, the Governor may, on or before August 1 of that fiscal year, notify the Legislature of an initial determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year.

(B) If the Governor provides notice to the Legislature pursuant to subparagraph (A), the Governor shall, on September 1 of any such year, make a final determination whether to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year. The determination to temporarily suspend the minimum wage increases scheduled pursuant to subdivision (b) for the following year shall be made by proclamation.

(C) The Governor may temporarily suspend scheduled minimum wage increases pursuant to clause (ii) of subparagraph (A) no more than two times.

(D) If the Governor makes a final determination to temporarily suspend the scheduled minimum wage increases pursuant to subdivision (b) for the following year, all dates specified in subdivision (b) that are subsequent to the September 1 final determination date shall be postponed by an additional year.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



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AB-612 Newborns and infants: hearing screening. (2017-2018)

Senate:

Assembly: 1st Cmt

Bill Status	
Measure:	AB-612
Lead Authors:	Rubio (A)
Principal Coauthors:	-
Coauthors:	-
Topic:	Newborns and infants: hearing screening.
31st Day in Print:	03/17/17
Title:	An act to amend Section Sections 124115.5, 124116, 124116.5, 124118.5, and 124119 of the Health and Safety Code, relating to newborn and infant hearing screening.
House Location:	Assembly
Last Amended Date:	03/15/17
Committee Location:	Asm Appropriations

Type of Measure
Active Bill - In Committee Process
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
04/26/17	In committee: Set, first hearing. Referred to suspense file.
04/05/17	From committee: Do pass and re-refer to Com. on APPR. (Ayes 14. Noes 0.) (April 4). Re-referred to Com. on APPR.
03/16/17	Re-referred to Com. on HEALTH.
03/15/17	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
02/27/17	Referred to Com. on HEALTH.



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AB-612 Newborns and infants: hearing screening. (2017-2018)

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AMENDED IN ASSEMBLY MARCH 15, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 612**Introduced by Assembly Member Rubio****February 14, 2017**

An act to amend ~~Section~~ Sections 124115.5, 124116, 124116.5, 124118.5, and 124119 of the Health and Safety Code, relating to newborn and infant hearing screening.

LEGISLATIVE COUNSEL'S DIGEST

AB 612, as amended, Rubio. Newborns and infants: hearing screening.

Existing law requires the State Department of Health Care Services to implement a newborn and infant hearing screening program and to develop and implement a reporting and tracking system for newborns and infants tested for hearing loss. Existing law requires certain medical providers to report specified information to the department or the department's designee to be included in the department's reporting and tracking system.

This bill would require those providers to report that information electronically. *The bill would require the department to develop and implement an electronic reporting and tracking system for newborns and infants tested for hearing loss and would require general acute care hospitals to maintain a newborn and infant data management system, as defined. The bill would make additional conforming changes.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 124115.5 of the Health and Safety Code is amended to read:

124115.5. (a) The Legislature finds and declares all of the following:

(1) Hearing loss occurs in newborns more frequently than any other health condition for which newborn screening is currently required.

(2) Early detection of hearing loss, early intervention, and followup services before six months of age, have been demonstrated to be highly effective in facilitating the development of a child's health and communication and cognitive skills.

(3) The State of California supports the National Healthy People-2000 *10-year national objective* goals, which promote early identification of children with hearing loss.

(4) Children of all ages can receive reliable and valid screening for hearing loss in a cost-effective manner.

(5) Appropriate screening and identification of newborns and infants with hearing loss will facilitate early intervention during this critical time for development of communication, and may, therefore, serve the public purposes of promoting the healthy development of children and reducing public expenditure for health care and special education and related services.

(b) The purposes of this article shall be to do all of the following:

(1) Provide early detection of hearing loss in newborns, as soon after birth as possible, to enable children who fail a hearing screening and their families and other caregivers to obtain needed confirmatory tests or multidisciplinary evaluation, or both, and intervention services, at the earliest opportunity.

(2) Prevent or mitigate delays of language and communication development that could lead to academic failures associated with late identification of hearing loss.

(3) Provide the state with the information necessary to effectively plan, establish, and evaluate a comprehensive system of appropriate services for parents with newborns and infants who have a hearing loss.

(4) Ensure the use of an Internet Web-based, external data enabled, automated newborn and infant data management system to effect early detection of hearing loss, including tracking of children identified with potential hearing loss.

SEC. 2. *Section 124116 of the Health and Safety Code is amended to read:*

124116. As used in this article:

(a) "Birth admission" means the time after birth that the newborn remains in the hospital nursery prior to discharge.

(b) "CCS" means the California Children's Services program administered through the State Department of Health Services.

(c) "Department" means the State Department of Health Services.

(d) "Electronic database" means a scalable, multiple user, automated newborn and infant data management system supporting role-based security.

(e) "Electronically" means use of a scalable, growth capable, multiple user, automated newborn and infant data management system supporting role-based, user level security that enables the capture and reporting of all newborn hearing screens and collects data that is used to track and monitor newborn children identified or suspected of suffering from hearing loss.

(f) "External data enabled" means that the newborn and infant data management system is capable of sending and receiving protected health information data directly from authorized hospital information systems or of directly uploading data from newborn hearing screening equipment in state-approved formats.

~~(d)~~

(g) "Followup services" means all of the following:

(1) All services necessary to diagnose and confirm a hearing loss.

(2) Ongoing audiological services to monitor hearing.

(3) Communication services, including, but not limited to, aural rehabilitation, speech, language, social, and psychological services.

(4) Necessary support of the infant and family.

(e)

(h) "Hearing loss" means a hearing loss of 30 decibels or greater in the frequency region important for speech recognition and comprehension in one or both ears (from 500 through 4000 Hz). However, as technology allows for changes to this definition through the detection of less severe hearing loss, the department may modify this definition by regulation.

(f)

(i) "Infant" means a child 29 days through 12 months old.

(j) *"Internet Web-based" means that the newborn and infant data management system resides on a secure environment that is compliant with the federal Health Insurance Portability and Accountability Act (HIPAA, Public Law 104-191). All authorized users at state-certified provider locations shall have access to data on their patients.*

(g)

(k) "Intervention services" means the early intervention services described in Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

(h)

(l) "Newborn" means a child less than 29 days old.

(m) *"Newborn and infant data management system" means an automated system in which all data is stored in a secured database and that allows for entry through the Internet and electronic transfer of data from provider information systems into the secured database.*

(i)

(n) "Newborn hearing screening services" means those hearing screening tests that are necessary to achieve the identification of all newborns and infants with a hearing loss.

(j)

(o) "Parent" means a natural parent, adoptive parent, or legal guardian of a child.

SEC. 3. Section 124116.5 of the Health and Safety Code is amended to read:

124116.5. (a) (1) Every general acute care hospital with licensed perinatal services in this state shall administer to every newborn, upon birth admission, a hearing screening test for the identification of hearing loss, using protocols approved by the department or its designee.

(2) In order to meet the department's certification criteria, a general acute care hospital shall be responsible for developing a screening program that provides competent hearing screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newborn's discharge from a newborn nursery unit, refers infants with abnormal screening results, maintains *a newborn and infant data management system* and reports data as required by the department, and provides physician and family-parent education.

(b) A hearing screening test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, licensed audiologist, or an appropriately trained individual who is supervised in the performance of the test by a licensed health care professional.

(c) Every general acute care hospital that has not been approved by the California Children's Services (CCS) program and that has licensed perinatal services that provide care in fewer than 100 births annually shall, if it does not directly provide a hearing screening test, enter into an agreement with an outpatient infant hearing screening provider certified by the department to provide hearing screening tests.

(d) This section shall not apply to any newborn whose parent or guardian objects to the test on the grounds that the test is in violation of his or her beliefs.

SEC. 4. Section 124118.5 of the Health and Safety Code is amended to read:

124118.5. (a) The department shall establish a system of early hearing detection and intervention centers that shall provide technical assistance and consultation to hospitals in the startup and ongoing implementation of a facility hearing screening program and followup system.

(b) The early hearing detection and intervention centers shall be chosen by the department according to standards and criteria developed by the California Children's Services (CCS) program. Each center shall be responsible for a separate geographic catchment area as determined by the program.

(c) Each center shall be required to develop a system that shall provide outreach and education to hospitals in its catchment area, approve hospitals on behalf of the department for participation as newborn hearing screening providers, maintain ~~a~~ *an electronic* database of all newborns and infants screened in the catchment area, ensure appropriate followup for newborns and infants with an abnormal hearing screening, including diagnostic evaluation and referral to intervention services programs if the newborn or infant is found to have a hearing loss, and provide coordination with the CCS and local early intervention programs as defined in Title 14 (commencing with Section 95000) of the Government Code.

~~SECTION 1.~~ **SEC. 5.** Section 124119 of the Health and Safety Code is amended to read:

124119. (a) The department shall develop and implement ~~a~~ *an electronic* reporting and tracking system for newborns and infants tested for hearing loss.

(b) The system shall provide the department with information and data to effectively plan, establish, monitor, and evaluate the Newborn and Infant Hearing Screening, Tracking and Intervention Program, including the screening and followup components, as well as the comprehensive system of services for newborns and infants who are deaf or hard-of-hearing and their families.

(c) Every general acute care hospital with licensed perinatal services, or NICU in this state shall report electronically to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.

(d) All providers of audiological followup and diagnostic services provided under this article shall report electronically to the department or the department's designee information as specified by the department to be included in the department's reporting and tracking system.

(e) The information compiled and maintained in the tracking system shall be kept confidential in accordance with Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code, the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and the applicable requirements and provisions of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(f) Data collected by the tracking system obtained directly from the medical records of the newborn or infant shall be for the confidential use of the department and for the persons or public or private entities that the department determines are necessary to carry out the intent of the reporting and tracking system.

(g) A health facility, clinical laboratory, audiologist, physician, registered nurse, or any other officer or employee of a health facility or laboratory or employee of an audiologist or physician, shall not be criminally or civilly liable for furnishing information to the department or its designee pursuant to the requirements of this section.



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AB-1707 Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. (2017-2018)

Senate:

Assembly: 1st Cmt

Bill Status

Measure:	AB-1707
Lead Authors:	Committee on Business and Professions (A) - (Assembly Members Salas (Chair), Brough (Vice Chair), Arambula, Baker, Bloom, Chiu, Dahle, Gipson, Grayson, Holden, Low, Mullin, Steinorth, and Ting)
Principal Coauthors:	-
Coauthors:	-
Topic:	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
31st Day in Print:	04/02/17
Title:	An act to amend Sections 2531 and 2531.75 of the Business and Professions Code, relating to healing arts.
House Location:	Assembly
Introduced Date:	03/02/17
Committee Location:	Asm Appropriations
Committee Hearing Date:	05/03/17

Type of Measure

Active Bill - In Committee Process
 Majority Vote Required
 Non-Appropriation
 Fiscal Committee
 Non-State-Mandated Local Program
 Non-Urgency
 Non-Tax levy

Last 5 History Actions

Date	Action
04/26/17	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 15. Noes 0.) (April 25). Re-referred to Com. on APPR.
03/16/17	Referred to Com. on B. & P.
03/03/17	From printer. May be heard in committee April 2.
03/02/17	Read first time. To print.



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AB-1707 Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1707

Introduced by Committee on Business and Professions (Assembly Members Salas (Chair), Brough (Vice Chair), Arambula, Baker, Bloom, Chiu, Dahle, Gipson, Grayson, Holden, Low, Mullin, Steinorth, and Ting)

March 02, 2017

An act to amend Sections 2531 and 2531.75 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1707, as introduced, Committee on Business and Professions. Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2018, and subjects the board to review by the appropriate policy committees of the Legislature.

This bill would extend, until January 1, 2022, the operation of the provisions establishing the board and authorizing it to appoint an executive officer.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2531 of the Business and Professions Code is amended to read:

2531. (a) There is in the Department of Consumer Affairs the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, ~~2018~~, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2018~~, 2022, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 2. Section 2531.75 of the Business and Professions Code is amended to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, ~~2018~~ 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2018~~, 2022, deletes or extends that date.



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SB-198 Hearing aid dispensers: cerumen: management: tympanometry. (2017-2018)

Senate: 1st Cmt

Assembly:

Bill Status

Measure:	SB-198
Lead Authors:	Galgiani (S)
Principal Coauthors:	-
Coauthors:	-
Topic:	Hearing aid dispensers: cerumen: management: tympanometry.
31st Day in Print:	03/02/17
Title:	An act to amend Section 2538.11 of the Business and Professions Code, relating to healing arts.
House Location:	Senate
Last Amended Date:	04/17/17
Committee Location:	Sen Business, Professions and Economic Development

Type of Measure

Active Bill - In Committee Process
 Majority Vote Required
 Non-Appropriation
 Fiscal Committee
 State-Mandated Local Program
 Non-Urgency
 Non-Tax levy

Last 5 History Actions

Date	Action
04/20/17	April 24 hearing postponed by committee.
04/17/17	From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
04/13/17	Set for hearing April 24.
04/13/17	April 17 set for second hearing canceled at the request of author.
03/28/17	Set for hearing April 17.



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SB-198 Hearing aid dispensers: cerumen: management: tympanometry. (2017-2018)

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AMENDED IN SENATE APRIL 17, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

No. 198

Introduced by Senator Galgiani

January 30, 2017

An act to amend Section 2538.11 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 198, as amended, Galgiani. Hearing aid dispensers: ~~cerumen management~~. cerumen: management: tympanometry.

Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. *A violation of the act is a crime. Under existing law, an applicant for a hearing aid dispenser license is required to take and pass a written examination and a practical examination. Existing law requires hearing aid licensees to complete at least 12 hours of continuing education, as provided.* Existing law defines the "practice of fitting or selling hearing aids" as those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling. Under existing law, hearing tests conducted are required to include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the board.

This bill would include cerumen management and tympanometry for patients 18 years of age and older in the practice of fitting or selling hearing aids. The bill would make a licensed hearing aid dispenser who has passed his or her licensing examinations eligible to sit for a board-approved examination assessing techniques and patient safety measures in cerumen management or tympanometry. The bill would require the board to apply board-approved courses in cerumen management and tympanometry to the continuing education requirement. The bill would require the administration of cerumen management by a licensed hearing aid dispenser to occur under physician and surgeon supervision. The bill would require a licensed hearing aid dispenser to immediately refer a patient to an appropriate physician or surgeon under certain circumstances in the process of cerumen management.

Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would authorize that practice to include cerumen management, as defined, subject to specified requirements, including that the hearing aid dispenser demonstrates specified proficiency in cerumen management and that cerumen management only occur under physician and surgeon supervision. The bill would additionally authorize tympanometry as an allowable hearing test if it is only used for further referral to a physician and surgeon for diagnosis or treatment.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) *The Legislature finds and declares all of the following:*

(1) There are currently over 1,100 licensed hearing aid dispensers in the State of California, who must pass a rigorous written and practical exam to obtain a license to practice in the state.

(2) Licensed hearing aid dispensers are required to complete 12 hours of continuing education annually, with all courses approved by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (board).

(3) Above and beyond California's licensing standards, many hearing aid dispensers obtain additional accreditation, known as the Board-Certified Hearing Instrument Specialist designation, which requires a separate examination and course study that advances the hearing aid dispensers's knowledge and skills.

(b) It is the intent of the Legislature to allow licensed hearing aid dispensers to practice at the highest levels of their training in order to better serve their patients, as well as provide the board with enforceable regulations to protect the public.

~~SECTION 1.~~**SEC. 2.** Section 2538.11 of the Business and Professions Code is amended to read:

2538.11. (a) "Practice of fitting or selling hearing aids," as used in this article, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling. This may include cerumen management. ~~For management and tympanometry for patients 18 years of age and older.~~

(1) For the purposes of this section, cerumen management means the removal of cerumen for the sole purpose of inspecting the ears, making impressions, or fitting and maintaining hearing aids.

(2) For the purposes of this section, tympanometry means the administration of the test for the sole purposes of fitting and maintaining hearing aids or referring a patient to a specialist physician and surgeon.

~~(1) Cerumen management shall only be performed by a hearing aid dispenser who has demonstrated proficiency of this skill in his or her licensing examination.~~

~~(2) Cerumen management shall only occur under physician and surgeon supervision, which shall be subject to all of the following:~~

~~(A) The hearing aid dispenser and physician and surgeon shall collaborate to develop a written standardized protocol. The protocol shall include, but not be limited to, a requirement that the supervised hearing aid dispenser immediately refer to an appropriate physician and surgeon any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen management.~~

~~(B) Approval by the supervising physician and surgeon of the written standardized protocol.~~

~~(C) The supervising physician and surgeon shall be within the general vicinity, as provided by the written standardized protocol, of the supervised hearing aid dispenser and shall be available by telephone at the time of cerumen management.~~

(b) (1) A licensed hearing aid dispenser who has passed his or her examinations described in Section 2538.25 is eligible to sit for a board-approved examination assessing techniques and patient safety measures in cerumen management or tympanometry. An examination approved by the board shall be an examination sufficient to demonstrate proficiency in cerumen management or tympanometry and the knowledge, skills, and abilities needed to perform those techniques safely.

(2) Notwithstanding any other law, the board shall apply board-approved courses in cerumen management and tympanometry to the continuing education requirement described in Section 2538.18. In order to be board-approved, a course shall cover the knowledge, skills, and abilities needed to perform cerumen management and tympanometry safely.

(3) The administration of cerumen management by a licensed hearing aid dispenser shall occur under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician and surgeon, but does include (A) collaboration on the development of the standardized procedure, (B) approval of the standardized procedure, and (C) availability by telephonic contact at the time of patient examination by the licensed hearing aid dispenser.

(4) A licensed hearing aid dispenser shall immediately refer a patient to an appropriate physician or surgeon if the patient demonstrates any trauma, including tears, bleeding, or other pathology of the ear discovered in the process of cerumen management.

~~(d)~~

(5) A physician and surgeon may not simultaneously supervise more than two hearing aid dispensers for purposes of cerumen management.

~~The~~

(c) The practice of fitting or selling hearing aids does not include the act of concluding the transaction by a retail clerk.

~~When~~

(d) When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, condition and the calibration of the audiometer or other equipment shall be checked at least annually.

~~(b)~~

(e) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the practice of fitting or selling hearing aids.

~~(e)~~

(f) Hearing tests conducted pursuant to this article shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the board. Tympanometry shall be considered an allowable hearing test for purposes of this section and shall only be used for further referral to a physician and surgeon for diagnosis or treatment.

SEC. 3. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*



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SB-247 Professions and vocations: license requirement: business: surety bond requirement. (2017-2018)

Senate: 1st Cmt

Assembly:

Bill Status	
Measure:	SB-247
Lead Authors:	Moorlach (S)
Principal Coauthors:	-
Coauthors:	-
Topic:	Professions and vocations: license requirement: business: surety bond requirement.
31st Day in Print:	03/09/17
Title:	An act to amend Sections 655.2, 2538.10, 2538.12, 2538.16, 2538.18, 2538.19, 2538.23, 2538.33, 2538.34, 2538.35, 2538.36, 2538.37, 2538.38, 2538.39, 2538.49, 2538.51, 2538.52, 2539.1, 6980, 6980.12, 6980.13, 6980.14, 6980.15, 6980.33, 6980.42, 6980.44, 6980.47, 6980.48, 6980.53, 6980.54, 6980.55, 6980.58, 6980.62, 6980.64, 6980.68, 6980.69, 6980.82, 7316, 7317, and 7533 7321, 7334, 7396, 7403, 7423, 7533, 7672.2, 7672.6, 19051, 19059.5, 19060.6, and 19170 of, to add Sections 460.5 and 7048.5 to, and to repeal Sections 2538.17, 2538.20, 2538.24, 2538.25, 2538.26, 2538.27, 2538.28, 2538.29, 2538.30, 2538.31, 3538.32, 2538.40, 2538.41, 2538.42, 2538.43, 2538.44, 2538.45, 2538.46, 2538.47, 2538.48, 2538.50, 2538.53, 2538.54, 2538.55, 2538.56, 2538.57, 6980.4, 6980.7, 6980.10, 6980.17, 6980.19, 6980.20, 6980.21, 6980.22, 6980.24, 6980.26, 6980.27, 6980.28, 6980.29, 6980.30, 6980.31, 6980.32, 6980.34, 6980.35, 6980.37, 6980.38, 6980.39, 6980.40, 6980.41, 6980.49, 6980.50, 6980.59, 6980.60, 6980.61, 6980.63, 6980.65, 6980.71, 6980.72, 6980.73, 6980.74, 6980.76, 6980.79, 6980.80, 6980.83, 6980.84, 7321.5, 7672, 7672.1, 7672.8, 7672.9, 7672.10, 7730.1, 7730.2, and 19052 of, the Business and Professions Code, and to amend Sections 1812.607 and 1812.608 of, and to repeal Section 1812.600 of of, the Civil Code, relating to occupations.
House Location:	Senate
Last Amended Date:	04/17/17
Committee Location:	Sen Judiciary

Type of Measure

☐ Active Bill - In Committee Process
☐ Majority Vote Required
☐ Non-Appropriation
☐ Fiscal Committee
☐ Non-State-Mandated Local Program
☐ Non-Urgency
☐ Non-Tax levy

Last 5 History Actions

Date	Action
04/18/17	Set for hearing April 25 in JUD. pending receipt.
04/17/17	From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.
04/07/17	Set for hearing April 24.
04/06/17	April 17 set for first hearing canceled at the request of author.
04/03/17	Set for hearing April 17.



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SB-247 Professions and vocations: license requirement: business: surety bond requirement. (2017-2018)

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AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 20, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

No. 247

Introduced by Senator Moorlach

February 06, 2017

An act to amend Sections 655.2, 2538.10, 2538.12, 2538.16, 2538.18, 2538.19, 2538.23, 2538.33, 2538.34, 2538.35, 2538.36, 2538.37, 2538.38, 2538.39, 2538.49, 2538.51, 2538.52, 2539.1, 6980, 6980.12, 6980.13, 6980.14, 6980.15, 6980.33, 6980.42, 6980.44, 6980.47, 6980.48, 6980.53, 6980.54, 6980.55, 6980.58, 6980.62, 6980.64, 6980.68, 6980.69, 6980.82, 7316, 7317, ~~and 7533~~ 7321, 7334, 7396, 7403, 7423, 7533, 7672.2, 7672.6, 19051, 19059.5, 19060.6, and 19170 of, to add Sections 460.5 and 7048.5 to, and to repeal Sections 2538.17, 2538.20, 2538.24, 2538.25, 2538.26, 2538.27, 2538.28, 2538.29, 2538.30, 2538.31, 3538.32, 2538.40, 2538.41, 2538.42, 2538.43, 2538.44, 2538.45, 2538.46, 2538.47, 2538.48, 2538.50, 2538.53, 2538.54, 2538.55, 2538.56, 2538.57, 6980.4, 6980.7, 6980.10, 6980.17, 6980.19, 6980.20, 6980.21, 6980.22, 6980.24, 6980.26, 6980.27, 6980.28, 6980.29, 6980.30, 6980.31, 6980.32, 6980.34, 6980.35, 6980.37, 6980.38, 6980.39, 6980.40, 6980.41, 6980.49, 6980.50, 6980.59, 6980.60, 6980.61, 6980.63, 6980.65, 6980.71, 6980.72, 6980.73, 6980.74, 6980.76, 6980.79, 6980.80, 6980.83, 6980.84, 7321.5, 7672, 7672.1, 7672.8, 7672.9, 7672.10, 7730.1, 7730.2, and 19052 of, the Business and Professions Code, and to amend Sections 1812.607 and 1812.608 of, and to repeal Section 1812.600 ~~of of~~, the Civil Code, relating to occupations.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as amended, Moorlach. Professions and vocations: license requirement: business: surety bond requirement.

(1) Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, makes it unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign

or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

This bill would repeal this license requirement.

(2) Existing law provides for the licensure and regulation of locksmiths and the registration of employees of locksmiths by the Bureau of Security and Investigative Services. Existing law prohibits a person from engaging within this state in the activities of a locksmith unless the person holds a valid locksmith license, is registered as an employee, or is exempt from these provisions. *Existing law requires a licensee who maintains or proposes to maintain a branch office, as defined, to apply and qualify for a branch office registration.*

This bill would repeal these license and registration requirements as well as related crimes.

(3) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law requires licensed contractors to be classified and authorizes them to be classified as, among other things, a C-27 landscaping contractor and a D-49 tree service contractor. A landscape contractor constructs, maintains, repairs, installs, or subcontracts the development of landscape systems and facilities for public and private gardens and other areas that are designed to aesthetically, architecturally, horticulturally, or functionally improve the grounds within or surrounding a structure or a tract or plot of land. A tree service contractor prunes trees, removes trees, limbs or stumps, including grinding, and engages in tree or limb guying.

Existing law provides that the law does not apply to any work or operation on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items is less than \$500, that work or those operations being considered of casual, minor, or inconsequential nature.

This bill would additionally provide that the law does not apply to any work or operation by a C-27 landscaping contractor or D-49 tree service contractor on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items, is less than ~~\$25,000~~, \$5,000.

(4) Existing Law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology by the State Board of Barbering and Cosmetology. The practice of barbering is all or any combination of shaving or trimming the beard or cutting the hair, giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances, singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics, applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck, and hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling. Within the practice of cosmetology, there is the specialty branch of skin care, which includes the application of makeup.

This bill would remove the application of makeup from the specialty branch of skin care and would also eliminate the license requirement for the practice of barbering.

(5) Existing law, the Private Investigator Act, prohibits a person from engaging in a business regulated by the act, acting or assuming to act as, or representing himself or herself to be, a licensee unless he or she is licensed under this act by the Bureau of Security and Investigative Services. Existing law requires each licensee to file with the bureau the complete address of his or her principal place of business, including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying the principal place of business.

This bill would specify that no California office is required.

(6) Existing law, the Cemetery and Funeral Act, prohibits a person from disposing of or offering to dispose of any cremated human remains unless registered as a cremated remains disposer by the Cemetery and Funeral Bureau.

This bill would repeal this registration requirement.

(7) Existing law, the Home Furnishings and Thermal Insulation Act, requires every custom upholsterer, unless he or she holds a furniture and bedding manufacturer's license, to hold a custom upholsterer's license.

This bill would repeal this license requirement.

(8) Existing law requires every auctioneer and auction company to maintain a specified bond issued by a surety company admitted to do business in this state.

This bill would repeal that bond requirement and related provisions.

(9) Existing law prohibits a city, county, or city and county from prohibiting a person or group of persons, authorized by one of the agencies in the Department of Consumer Affairs with a license, certificate, or other means to engage in a particular business, from engaging in that business, occupation, or profession or any portion of that business, occupation, or profession. Existing law prohibits a city, county, or city and county from prohibiting a healing arts licensee from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee. However, existing law does not prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a licensee.

This bill, on or after January 1, 2018, would prohibit a city, county, or city and county from imposing any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee on January 1, 2018, but the bill would authorize a city, county, or city and county to continue to regulate any profession or vocation that is subject to its licensing requirement or fee on January 1, 2018. The bill would declare the intention of the Legislature to occupy the whole field of the licensure and regulation of professions and vocations.

(10) This bill would make various nonsubstantive and conforming changes in order to carry out the provisions of this bill.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares as follows:

(a) Occupational licensing laws are important tools that, when used correctly, help protect public health and safety. Many current laws, however, do little to help public health or safety and result in barriers to entry that prevent people from making a living in their chosen occupation.

(b) The Little Hoover Commission and the President Obama White House both released recent reports that recognized the need for extensive reform to these anticompetitive laws.

(c) This act is consistent with recommendations to reduce barriers to entry into occupations that do not pose a significant risk to public health and safety. Thus, this act allows hard-working Californians to enter occupations without first having to comply with prohibitively expensive licensing and education requirements that serve no public good.

SEC. 2. Section 460.5 is added to the Business and Professions Code, to read:

460.5. (a) Notwithstanding any other law, on or after January 1, 2018, a city, county, or city and county may not impose any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee on January 1, 2018, but the city, county, or city and county may continue to regulate any profession or vocation that is subject to its licensing requirement or fee on January 1, 2018.

(b) Except as provided in subdivision (a), it is the intention of the Legislature to occupy the whole field of the licensure and regulation of professions and vocations.

SEC. 3. Section 655.2 of the Business and Professions Code is amended to read:

655.2. (a) (1) No physician and surgeon or medical corporation licensed under Chapter 5 (commencing with Section 2000), nor any audiologist who is not a licensed dispensing audiologist or hearing aid dispenser shall employ any individual ~~licensed pursuant to described in~~ Article 8 (commencing with Section 2538.10) of Chapter 5.3 for the purpose of fitting or selling hearing aids.

(2) No individual ~~licensed pursuant to described in~~ Article 8 (commencing with Section 2538.10) of Chapter 5.3 shall employ any physician and surgeon or any audiologist who is not a licensed dispensing audiologist or a hearing aid dispenser, or contract with a medical corporation licensed under Chapter 5 (commencing with Section 2000), for the purpose of fitting or selling hearing aids.

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

SEC. 4. *Section 2538.10 of the Business and Professions Code is amended to read:*

2538.10. For the purposes of this article, the following definitions shall apply:

(a) "Advertise" and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

~~(b) "License" means a hearing aid dispenser's license issued pursuant to this article and includes a temporary license.~~

~~(c) "Licensee" means a person holding a license.~~

~~(d)~~

(b) "Hearing aid" means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

~~(e)~~

(c) "Fund" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

SEC. 5. *Section 2538.12 of the Business and Professions Code is amended to read:*

2538.12. A ~~licensee~~ *hearing aid dispenser* may conduct hearing screenings at a health fair or similar event by the application of a binary puretone screening at a preset intensity level for the purpose of identifying the need for further hearing or medical evaluation.

Upon the conclusion of each hearing screening, the ~~licensee~~ *hearing aid dispenser* shall present to the person whose hearing was screened a written statement containing the following provisions:

"Results of a hearing screening are not a medical evaluation of your ear nor a diagnosis of a hearing disorder but are only the identification of the need for further medical or hearing evaluation."

A ~~licensee~~ *hearing aid dispenser* conducting hearing screenings pursuant to this section shall not make or seek referrals for testing, fitting, or dispensing of hearing aids.

SEC. 6. *Section 2538.16 of the Business and Professions Code is amended to read:*

2538.16. The board shall keep a record of all prosecutions for violations of this ~~article and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.~~ *article.*

SEC. 7. *Section 2538.17 of the Business and Professions Code is repealed.*

~~2538.17. The board may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The board may require applicants to first complete the required course of instruction or otherwise satisfy the board that the applicant possesses the necessary background and qualifications to fit or sell hearing aids. If the board promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, the board shall obtain the advice of persons knowledgeable in the preparation and administration of a course of instruction.~~

~~The board may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.~~

SEC. 8. *Section 2538.18 of the Business and Professions Code is amended to read:*

~~2538.18. All holders of licenses to sell or fit hearing aids~~ *hearing aid dispensers* shall continue their ~~education after receiving the license.~~ *education.* The board shall provide by ~~regulation, as a condition to the renewal of a license,~~ *regulation* that ~~licensees~~ *hearing aid dispensers* shall submit documentation satisfactory to the board that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the board or by other means defined as equivalent by the board.

Continuing education courses shall be subject to monitoring to ensure compliance with the regulations adopted by the board pursuant to this section.

SEC. 9. *Section 2538.19 of the Business and Professions Code is amended to read:*

2538.19. (a) The board may prosecute any and all persons for any violation of this article.

(b) The board shall hear and decide all ~~matters, including, but not limited to, any contested case or any petition for reinstatement or modification of probation,~~ *matters* or may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~**SEC. 3.**~~ **SEC. 10.** *Section 2538.20 of the Business and Professions Code is repealed.*

SEC. 11. *Section 2538.23 of the Business and Professions Code is amended to read:*

2538.23. (a) Hearing aids may be sold by catalog or direct mail provided that:

(1) The seller is ~~licensed as~~ a hearing aid dispenser in this state.

(2) There is no fitting, selection, or adaptation of the instrument and no advice is given with respect to fitting, selection, or adaptation of the instrument and no advice is given with respect to the taking of an ear impression for an earmold by the seller.

(3) The seller has received a statement which is signed by a physician and ~~surgeon, audiologist, surgeon licensed by the State of California, audiologist licensed by the State of California,~~ or a hearing aid dispenser, ~~licensed by the State of California~~ which verifies that Section 2538.36 and subdivision (b) of Section 2538.49 ~~have~~ *has* been complied with.

(b) A copy of the statement referred to in paragraph (3) of subdivision (a) shall be retained by the seller for the period provided for in Section 2538.38.

(c) A ~~licensed~~ hearing aid dispenser who sells a hearing aid under this section shall not be required to comply with subdivision (b) of Section 2538.49.

SEC. 12. *Section 2538.24 of the Business and Professions Code is repealed.*

~~2538.24. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the board. The application shall be made upon a form and shall be made in the manner as is provided by the board and shall be accompanied by the fee provided for in Section 2538.57.~~

SEC. 13. *Section 2538.25 of the Business and Professions Code is repealed.*

~~2538.25. (a) The board shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The board may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the board, provided, however, that the board shall establish the guidelines for the examination and shall approve the actual examination.~~

~~(b) Each applicant shall take and pass a written examination and a practical examination compiled at the direction of the board covering the critical tasks involved in the practice of fitting and selling hearing aids and the knowledge, skills, and abilities needed to perform those tasks safely and competently.~~

SEC. 14. *Section 2538.26 of the Business and Professions Code is repealed.*

~~2538.26. The board shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes~~

constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 2538.57. No license shall be issued to any person other than an individual.

SEC. 15. Section 2538.27 of the Business and Professions Code is repealed.

~~2538.27.(a)An applicant who has fulfilled the requirements of Section 2538.24 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the board that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years immediately prior to application.~~

~~(b)A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A temporary license shall automatically terminate upon issuance of a license prior to expiration of the one-year period.~~

~~(c)The holder of a temporary license issued pursuant to this section who fails either license examination shall be subject to and shall comply with the supervision requirements of Section 2538.28 and any regulations adopted pursuant thereto.~~

SEC. 16. Section 2538.28 of the Business and Professions Code is repealed.

~~2538.28.(a)An applicant who has fulfilled the requirements of Section 2538.24, and has made application therefor, and who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board may have a temporary license issued to him or her. The temporary license shall entitle the temporary licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed by a temporary licensee under his or her supervision that may constitute a violation of this chapter.~~

~~(b)The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a temporary licensee, including procedures to appeal that decision.~~

~~(c)A temporary license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the temporary license for an additional period of six months. Except as provided in subdivision (d), the board shall not issue more than two renewals of a temporary license to any applicant. Notwithstanding subdivision (d), if a temporary licensee who is entitled to renew a temporary license does not renew the temporary license and applies for a new temporary license at a later time, the new temporary license shall only be issued and renewed subject to the limitations set forth in this subdivision.~~

~~(d)A new temporary license may be issued pursuant to this section if a temporary license issued pursuant to subdivision (c) has lapsed for a minimum of three years from the expiration or cancellation date of the previous temporary license. The bureau may issue only one new temporary license under this subdivision.~~

SEC. 17. Section 2538.29 of the Business and Professions Code is repealed.

~~2538.29.A temporary licensee under Section 2538.28 shall take the license examination within the first 10 months after the temporary license is issued. Failure to take the license examination within that time shall result in expiration of the temporary license, and it shall not be renewed unless the temporary licensee has first taken the licensure examination. The board, however, may in its discretion renew the temporary license if the licensee failed to take the necessary examination due to illness or other hardship.~~

SEC. 18. Section 2538.30 of the Business and Professions Code is repealed.

~~2538.30.(a)A temporary licensee shall not be the sole proprietor of, manage, or independently operate a business which engages in the fitting or sale of hearing aids.~~

~~(b)A temporary licensee shall not advertise or otherwise represent that he or she holds a license as a hearing aid dispenser.~~

SEC. 19. Section 2538.31 of the Business and Professions Code is repealed.

~~2538.31.Practical examinations shall be held by the board at least twice a year. The time and place of any practical examination shall be fixed by the board at least 45 days prior to the date it is to be held.~~

SEC. 20. Section 2538.32 of the Business and Professions Code is repealed.

~~2538.32. Every applicant who obtains a passing score determined by the Angoff criterion referenced method of establishing the point in each examination shall be deemed to have passed that examination. An applicant shall pass the written examination before he or she may take the practical examination. An applicant shall obtain a passing score on both the written and the practical examination in order to be issued a license.~~

SEC. 21. *Section 2538.33 of the Business and Professions Code is amended to read:*

2538.33. (a) Before engaging in the practice of fitting or selling hearing aids, each ~~licensee~~ *hearing aid dispenser* shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any changes in his or her place of business within 30 days of engaging in that practice.

(b) If a street address is not the address at which the ~~licensee~~ *hearing aid dispenser* receives mail, the ~~licensee~~ *hearing aid dispenser* shall also notify the board in writing of the mailing address for each location where the ~~licensee~~ *hearing aid dispenser* is to engage, or intends to engage, in the practice of fitting or selling hearing aids, and of any change in the mailing address of his or her place or places of business.

SEC. 22. *Section 2538.34 of the Business and Professions Code is amended to read:*

2538.34. (a) Every ~~licensee~~ *hearing aid dispenser* who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the ~~licensee's~~ *hearing aid dispenser's* place of business shall be registered with the ~~bureau~~ *board* as provided in Section 2538.33.

(b) Except as provided in subdivision (c), if a ~~licensee~~ *hearing aid dispenser* maintains more than one place of business within this state, he or she shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser ~~may, without obtaining a duplicate license for a branch office, may~~ engage on a temporary basis in the practice of fitting or selling hearing aids at the primary or branch location of another ~~licensee's~~ *hearing aid dispenser's* business or at a location or facility that he or she may use on a temporary basis, provided that the hearing aid dispenser notifies the board in advance in writing of the dates and addresses of those businesses, locations, or facilities at which he or she will engage in the practice of fitting or selling hearing aids.

SEC. 23. *Section 2538.35 of the Business and Professions Code is amended to read:*

2538.35. A ~~licensee~~ *hearing aid dispenser* shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the ~~licensee,~~ *hearing aid dispenser,* containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the ~~licensee,~~ *hearing aid dispenser,* and the address and office hours at which the ~~licensee~~ *hearing aid dispenser* shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

~~(e) The number of the licensee's license and the name and license number of any other hearing aid dispenser or temporary licensee who provided any recommendation or consultation regarding the purchase of the hearing aid.~~

~~(f)~~

(e) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

SEC. 24. *Section 2538.36 of the Business and Professions Code is amended to read:*

2538.36. (a) Whenever any of the following conditions are found to exist either from observations by the ~~licensee hearing aid dispenser~~ or on the basis of information furnished by the prospective hearing aid user, a ~~licensee hearing aid dispenser~~ shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his or her best interests would be served if he or she would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

- (1) Visible congenital or traumatic deformity of the ear.
- (2) History of, or active drainage from the ear within the previous 90 days.
- (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap (when generally acceptable standards have been established).
- (7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
- (8) Pain or discomfort in the ear.

(b) No referral for medical opinion need be made by any ~~licensee hearing aid dispenser~~ in the instance of replacement only of a hearing aid that has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the ~~licensee hearing aid dispenser~~ for the period provided for in Section 2538.38. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the ~~licensee hearing aid dispenser~~ for the period provided for in Section 2538.38. Nothing in this section required to be performed by a ~~licensee hearing aid dispenser~~ shall mean that the ~~licensee hearing aid dispenser~~ is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

SEC. 25. *Section 2538.37 of the Business and Professions Code is amended to read:*

2538.37. No hearing aid shall be sold by ~~an individual licensed under this chapter,~~ a *hearing aid dispenser*, to a person 16 years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by both a board-certified, or a board-eligible physician specializing in otolaryngology, and by a state licensed audiologist. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

SEC. 26. *Section 2538.38 of the Business and Professions Code is amended to read:*

2538.38. A ~~licensee hearing aid dispenser~~ shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his or her office or place of business at all times and each record shall be kept and maintained for a seven-year period. All records related to the sale and fitting of hearing aids shall be open to inspection by the bureau or its authorized representatives upon reasonable notice. The records kept shall include:

- (a) Results of test techniques as they pertain to fitting of the hearing aid.
- (b) A copy of the written receipt required by Section 2538.35 and the written recommendation and receipt required by Section 2538.36 when applicable.
- (c) Records of maintenance or calibration of equipment used in the practice of fitting or selling hearing aids.

SEC. 27. *Section 2538.39 of the Business and Professions Code is amended to read:*

2538.39. A hearing aid dispenser who is the owner, manager, or franchisee at a location where hearing aids are fit or sold, shall be responsible for the adequacy of the fitting or selling of any hearing aid fit and sold by any ~~licensee or licensees hearing aid dispenser~~ at that location.

SEC. 28. *Section 2538.40 of the Business and Professions Code is repealed.*

~~2538.40. Upon denial of an application for license, the board shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 2533.2 if he or she makes written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise.~~

SEC. 29. *Section 2538.41 of the Business and Professions Code is repealed.*

~~2538.41. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the board may require the petitioner to pass the regular examination given for applicants for licenses.~~

SEC. 30. *Section 2538.42 of the Business and Professions Code is repealed.*

~~2538.42. Any person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.~~

SEC. 31. *Section 2538.43 of the Business and Professions Code is repealed.*

~~2538.43. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the board.~~

SEC. 32. *Section 2538.44 of the Business and Professions Code is repealed.*

~~2538.44. It is unlawful to purchase or procure by barter any license issued by the board with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.~~

SEC. 33. *Section 2538.45 of the Business and Professions Code is repealed.*

~~2538.45. It is unlawful to alter with fraudulent intent in any material regard a license issued by the board.~~

SEC. 34. *Section 2538.46 of the Business and Professions Code is repealed.*

~~2538.46. It is unlawful to use or attempt to use any license issued by the board that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.~~

SEC. 35. *Section 2538.47 of the Business and Professions Code is repealed.*

~~2538.47. It is unlawful to willfully make any false statement in a material regard in an application for an examination before the board for a license.~~

SEC. 36. *Section 2538.48 of the Business and Professions Code is repealed.*

~~2538.48. It is unlawful to engage in the practice of fitting or selling hearing aids in this state without having at the time of so doing a valid, unrevoked, and unexpired license or temporary license.~~

SEC. 37. *Section 2538.49 of the Business and Professions Code is amended to read:*

2538.49. It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or she first does all of the following:

- (a) Complies with all provisions of state laws and regulations relating to the fitting or selling of hearing aids.
- (b) Conducts a direct observation of the purchaser's ear canals.
- (c) Informs the purchaser of the address and office hours at which the licensee hearing aid dispenser shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

SEC. 38. *Section 2538.50 of the Business and Professions Code is repealed.*

~~2538.50. It is unlawful to advertise by displaying a sign or otherwise or hold himself or herself out to be a person engaged in the practice of fitting or selling hearing aids without having at the time of so doing a valid, unrevoked license or temporary license.~~

SEC. 39. *Section 2538.51 of the Business and Professions Code is amended to read:*

2538.51. It is unlawful to engage in the practice of fitting or selling hearing aids without the licensee *hearing aid dispenser* having and maintaining an established business address, routinely open for service to his or her clients.

SEC. 40. *Section 2538.52 of the Business and Professions Code is amended to read:*

2538.52. When tests are conducted by ~~persons licensed hearing aid dispensers~~ under this article in connection with the fitting and selling of hearing aids, the provisions of this article shall apply.

SEC. 41. *Section 2538.53 of the Business and Professions Code is repealed.*

~~2538.53.(a) A license issued under this article expires at midnight on its assigned renewal date.~~

~~(b) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.~~

~~(c) Temporary license holders shall renew their licenses in accordance with Section 2538.27, and apply for that renewal on a form provided by the board, accompanied by the prescribed renewal fee for temporary licenses.~~

~~(d) Each duplicate license issued for a branch office shall expire on the same date as the permanent license of the hearing aid dispenser to whom the duplicate license was issued. These duplicate licenses shall be renewed according to subdivision (b).~~

SEC. 42. *Section 2538.54 of the Business and Professions Code is repealed.*

~~2538.54. Except as otherwise provided in this article, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 2538.53 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.~~

SEC. 43. *Section 2538.55 of the Business and Professions Code is repealed.*

~~2538.55. A license which has been suspended is subject to expiration and shall be renewed as provided in this article but such renewal does not entitle the holder of the license, while it remains suspended and until it is reinstated, to engage in the fitting or selling of hearing aids, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.~~

SEC. 44. *Section 2538.56 of the Business and Professions Code is repealed.*

~~2538.56. A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:~~

~~(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.~~

~~(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.~~

~~(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the board that he or she is qualified to engage in the practice of fitting or selling hearing aids. The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.~~

SEC. 45. *Section 2538.57 of the Business and Professions Code is repealed.*

~~2538.57. The amount of fees and penalties prescribed by this article shall be those set forth in this section unless a lower fee is fixed by the board:~~

~~(a) The fee for applicants applying for the first time for a license is seventy five dollars (\$75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars (\$50).~~

~~(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the board, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.~~

~~(c) The initial temporary license fee is one hundred dollars (\$100). The fee for renewal of a temporary license is one hundred dollars (\$100) for each renewal.~~

~~(d) The initial permanent license fee is two hundred eighty dollars (\$280). The fee for renewal of a permanent license is not more than two hundred eighty dollars (\$280) for each renewal.~~

~~(e) The initial branch office license fee is twenty five dollars (\$25). The fee for renewal of a branch office license is twenty five dollars (\$25) for each renewal.~~

~~(f) The delinquency fee is twenty five dollars (\$25).~~

~~(g) The fee for issuance of a replacement license is twenty five dollars (\$25).~~

~~(h) The continuing education course approval application fee is fifty dollars (\$50).~~

~~(i) The fee for official certification of licensure is fifteen dollars (\$15).~~

SEC. 46. *Section 2539.1 of the Business and Professions Code is amended to read:*

2539.1. (a) (1) On and after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she completes an application for a dispensing audiology license, pays all applicable fees, and passes an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiology license to a licensed audiologist who meets the requirements of paragraph (1).

~~(b)(1) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Article 8 (commencing with Section 2538.10) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 2538.53, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's license to sell hearing aids, the board shall issue him or her a dispensing audiology license pursuant to paragraph (2) of subdivision (a). This paragraph shall not prevent an audiologist who also has a hearing aid dispenser's license from maintaining dual or separate licenses if he or she chooses to do so.~~

~~(2) A licensed audiologist whose license to sell hearing aids, issued pursuant to Article 8 (commencing with Section 2538.10), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.~~

~~(c)~~

~~(b)~~ A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the requirements of paragraph (1) of subdivision (a) for the purposes of obtaining a dispensing audiology license.

~~(d)~~

(c) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

SEC. 47. *Section 6980 of the Business and Professions Code is amended to read:*

6980. The following terms as used in this chapter have the meaning expressed in this article:

~~(a) "Branch office" means any additional physical location, other than the principal place of business of a licensee, where any locksmith service is provided. Branch office includes the California office of any out of state business conducting, directing, dispatching, or managing a locksmith business, service, or service providers in California. A telephone answering service or a telephone call forwarding device, for routing calls within the immediate geographic area, shall not be deemed to be a branch office.~~

~~(b)~~

(a) "Bureau" means the Bureau of Security and Investigative Services.

~~(c)~~

(b) "Chief" means the Chief of the Bureau of Security and Investigative Services.

~~(d)~~

(c) "Department" means the Department of Consumer Affairs.

~~(e)~~

(d) "Director" means the Director of the Department of Consumer Affairs.

~~(f)~~

(e) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

~~(g)~~

(f) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control. An independent contractor is not an employee pursuant to this chapter.

~~(h)~~

(g) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

~~(i) "Licensee" means a business entity, whether an individual, partnership, or corporation, licensed under this chapter.~~

~~(j)~~

(h) "Locksmith" means any person who, for any consideration or compensation whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of rekeying, installing, repairing, opening, modifying locks, or who originates keys for locks, including, but not limited to, electronic cloning of transponder keys and any other electronic programming of automotive keys and electronic operating devices, such as key fobs, door and ignition key devices, and successive electronic and other high-security key technology. *A locksmith may be a business entity, whether an individual, partnership, or corporation.* A "locksmith" does not mean a person whose activities are limited to making a duplicate key from an existing key.

~~(k)~~

(i) "Person" means any individual, firm, company, association, organization, partnership, or corporation.

~~(l) "Registrant" means an employee registered pursuant to the provisions of this chapter.~~

~~(m)~~

(j) "Lock" means any mechanical, electromechanical, electronic, or electromagnetic device, or similar device, including any peripheral hardware, that is designed to control access from one area to another, or that is designed to control the use of a device, including, but not limited to, a safe, vault, or safe deposit box.

~~(n)~~

(k) "Recombination" means changing the combination of any combination-actuated lock.

~~(e)~~

(l) "Master key system" means any system in which a lock is rekeyed so that the lock can be operated by its own individual key and can also be operated by a key that can operate other locks if the other locks cannot be operated with the lock's individual key.

~~(p)~~

(m) "Key duplication machine" means any tool whose only capability is to manufacture a new key by using an existing key as a guide, which includes, but is not limited to, any of the following:

(1) Standard key duplication machines that are limited to duplication of a metallic key from an existing metallic key, standard single- or double-sided key, including a plastic "credit card" emergency key.

(2) High-security key machines that include the duplication of restricted keys, such as sidewinders and laser cut styles of machines.

(3) Transponder cloning and reprogramming machines that transfer electronic codes and signals and successive technology to keys, fobs, and door and ignition operating devices.

~~(q)~~

(n) "Key blank" means a key that has not been altered or cut and does not include depth keys.

~~(r)~~

(o) "Pin kit" means a container that holds only the following lock parts and materials:

(1) Bottom pins.

(2) Top pins (not including master pins).

(3) Springs.

(4) Plug follower.

(5) Proprietary tools, provided by a lock manufacturer, designed for the purpose of rekeying a lock.

~~(s)~~

(p) "Locksmith tool" means (1) any tool designed for the purpose of opening, bypassing, altering, rekeying, servicing, or repairing any lock, or (2) any burglar tool, as described in Section 466 of the Penal Code.

~~(t)~~

(q) "Motor service vehicle" means any vehicle, as defined in Section 6161 of the Vehicle Code, or other mode of transportation, that is used in the business of rekeying, installing, repairing, opening, or modifying locks, or originating keys for locks.

SEC. 48. *Section 6980.4 of the Business and Professions Code is repealed.*

~~6980.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established under this chapter by unlicensed persons who engage in a business for which a license is required under this chapter, and shall furnish the evidence to prosecuting officers of any county, city, or city and county for the purpose of prosecuting those violations.~~

SEC. 49. *Section 6980.7 of the Business and Professions Code is repealed.*

~~6980.7.(a) The director may adopt and enforce rules and regulations as may be reasonable and necessary for issuing licenses to applicants, for the conduct of the licensees, or for the general enforcement of this chapter in the protection of the public.~~

~~(b) These rules and regulations shall be adopted in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

SEC. 4. SEC. 50. *Section 6980.10 of the Business and Professions Code is repealed.*

SEC. 51. *Section 6980.12 of the Business and Professions Code is amended to read:*

6980.12. This chapter does not apply to the following persons:

(a) A person, or his or her agent or employee, who is the manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(b) An employee who is an industrial or institutional locksmith, provided that the employee provides locksmith services only to a single employer that does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(c) A tow truck driver who does not originate keys for locks and whose locksmith services are limited to opening motor vehicles.

(d) A person employed exclusively and regularly by a state correctional institution, or other state or federal agency, and who does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(e) (1) A person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500) if the duties of that person's position that constitute locksmithing are ancillary to the primary duties and functions of that person's position.

(2) A person licensed, certified, or registered pursuant to Chapter 11.6 (commencing with Section 7590) if the duties of that person's position that constitute locksmithing are performed in combination with the installation, maintenance, moving, repairing, replacing, servicing, or reconfiguration of an alarm system, as defined in subdivision (n) of Section 7590.1, and limited to work on electronic locks or access control devices that are controlled by an alarm system control device, including the removal of existing hardware.

(f) An agent or employee of a retail establishment that has a primary business other than providing locksmith services, providing all of the following criteria are met:

(1) The services provided by the retail establishment are limited to rekeying and recombination of locks.

(2) All rekeying, recombination, and installation of locks must take place on the premises of the retail establishment.

(3) All rekeying, recombination, and installation services provided by the retail establishment subject to this chapter are limited to locks purchased on the retail establishment's premises and are conducted prior to purchasers taking possession of the locks.

(4) An ~~unlicensed~~ agent or employee of the retail establishment shall not advertise or represent himself or herself to be ~~licensed~~ a *locksmith* under this chapter, and an agent or employee of the retail establishment shall not advertise or represent himself or herself to be a locksmith.

(5) An agent or employee of the retail establishment shall not design or implement a master key system, as defined in subdivision ~~(e)~~ (l) of Section 6980.

(6) An agent or employee of the retail establishment shall not rekey, change the combination of, alter, or install any automotive locks.

(7) The retail establishment shall not have on its premises any locksmith tool, as defined in subdivision ~~(s)~~ (p) of Section 6980, other than the following:

(A) Standard key duplication machines.

(B) Key blanks.

(C) Pin kits.

(g) A law enforcement officer employed by any city, county, city and county, state, or federal law enforcement agency, if all services are performed during the course of the officer's professional duties.

(h) A firefighter or emergency medical person employed by any city, county, city and county, district, or state agency, if all services are performed during the course of duties as a firefighter or emergency medical person.

(i) A new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and an employee of a new motor vehicle dealer acting within the scope of employment at a dealership.

SEC. 52. Section 6980.13 of the Business and Professions Code is amended to read:

6980.13. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt ~~or unlicensed~~ locksmith after being notified in writing by the bureau of the individual's ~~unlicensed~~ status with the bureau, is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment, except as otherwise provided in this chapter.

(b) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(c) Any person who is convicted of a violation of this section ~~or Section 6980.10 shall not be issued a license a locksmith for a period of one year following a first conviction and shall not be issued a license for a period of five years following a second or subsequent conviction of this section or Section 6980.10 or any combination of those sections.~~ conviction.

(d) It is the intent of the Legislature that the prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

SEC. 53. Section 6980.14 of the Business and Professions Code is amended to read:

6980.14. (a) The superior court in and for the county where any person has engaged or is about to engage in any act that constitutes a violation of this ~~chapter, or where any person engages in the business of a locksmith after the revocation or expiration of any license or during the period of suspension of any license,~~ chapter, may, upon application of the chief or any ~~person licensed~~ locksmith under these provisions or any association representing those ~~licensees~~ locksmiths or any member of the general public, issue an injunction or other appropriate order restraining this conduct and may impose civil fines not exceeding ten thousand dollars (\$10,000). The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be no requirement to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable injury.

(b) During the period of revocation, expiration, or suspension, any business telephone number used to conduct, direct, operate, dispatch, manage, or utilize an ~~illegal, nonexempt, or unlicensed~~ illegal or nonexempt locksmith business, locksmith service, service provider, or related activity, may be disconnected by ruling of the chief.

(c) The superior court for the county in which any person has engaged in any act that constitutes a violation of this chapter may, upon a petition filed by the chief with the approval of the director, order this person to make restitution to persons injured as a result of the violation.

(d) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (c), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(e) A proceeding to impose the fine specified in subdivision (a) and enjoin the ~~unlicensed~~ operation may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(f) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

SEC. 54. *Section 6980.15 of the Business and Professions Code is amended to read:*

6980.15. No person engaged in performing any ~~locksmith service requiring a license under this chapter~~ may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or agreement, without alleging and proving, that the person was ~~duly licensed a locksmith~~ at all times during the performance of the act or agreement.

SEC. 55. *Section 6980.17 of the Business and Professions Code is repealed.*

~~6980.17.(a)An application for a locksmith license shall be made in writing to, and filed with, the chief in the form as may be required by the director, and shall be accompanied by the application fee prescribed by this chapter. The chief may require the submission of any other relevant information, evidence, statements, or documents.~~

~~(b)Every application for a locksmith license shall state, among other things that may be required, the name of the applicant, the name under which the applicant will do business, and the location by street, number, and city of the office of the business for which the license is sought.~~

~~(c)No license shall be issued in any fictitious name that may be confused with, or that is similar to, any federal, state, county, or municipal governmental function or agency, or to any law enforcement agency, or in any name that may tend to describe any business function or enterprise not actually engaged in by the applicant.~~

~~(d)No license shall be issued in any fictitious name that is misleading or would constitute false advertising.~~

SEC. 56. *Section 6980.19 of the Business and Professions Code is repealed.*

~~6980.19.If the applicant for a license is an individual, the application shall state the full name of the individual, the full residence address of the applicant, and that the applicant is to be personally and actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by the applicant, under penalty of perjury.~~

SEC. 57. *Section 6980.20 of the Business and Professions Code is repealed.*

~~6980.20.If the applicant for a license is a partnership, the application shall state the true names and addresses of all the general partners and the name of the partner to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed under penalty of perjury by all of the general partners.~~

SEC. 58. *Section 6980.21 of the Business and Professions Code is repealed.*

~~6980.21.(a)If the applicant for a license is a corporation, the application shall state the true names and complete residence addresses of the chief executive officer, secretary, chief financial officer, and any other corporate officer who will be active in the business to be licensed. The corporation identification number issued by the Secretary of State shall be indicated on the application. The application shall also state the name and address of a designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant under penalty of perjury.~~

~~(b)Except as herein otherwise provided, no individual shall be placed in active charge of the business if the individual has ever had a license revoked for cause or has ever been disqualified from further employment in the locksmith business pursuant to this chapter.~~

SEC. 59. *Section 6980.22 of the Business and Professions Code is repealed.*

~~6980.22.No new or original license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or partner, or officer of the applicant, or pending final disposition of any disciplinary action related to the locksmith business previously filed in another state against the person or applicant or partner, or officer of the applicant.~~

SEC. 60. *Section 6980.24 of the Business and Professions Code is repealed.*

~~6980.24.The director shall issue a license, the form and content of which shall be determined in accordance with Section 164. In addition, the director shall issue a "Certificate of Licensure" to any licensee, upon request, with the fee prescribed in this chapter. A "Certificate of Licensure" shall include an embossed seal of the State of California and the signature of the chief or his or her designated representative.~~

SEC. 61. *Section 6980.26 of the Business and Professions Code is repealed.*

~~6980.26.(a)Each locksmith license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business, each branch office, and in each mobile service vehicle for which the license is issued.~~

~~(b)The director may assess a fine of two hundred fifty dollars (\$250) per violation of subdivision (a). These fines shall be deposited in the Private Security Services Fund.~~

SEC. 62. *Section 6980.27 of the Business and Professions Code is repealed.*

~~6980.27.Every locksmith license shall expire at 12 midnight of the last day of the month two years following the date of issuance unless renewed; provided however, that the bureau may establish procedures, pursuant to Sections 152.5 and 152.6, for the administration of a staggered license renewal program. To renew an unexpired license or registration, the licensee shall apply for renewal on a form prescribed by the director, pay any and all fines assessed by the chief or the director which are not pending appeal, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or registration as the director may prescribe shall be issued to the licensee. The bureau shall send to each licensee a notice of renewal at least 45 calendar days prior to the expiration of each unexpired license.~~

SEC. 63. *Section 6980.28 of the Business and Professions Code is repealed.*

~~6980.28.A locksmith license not renewed within three years following its expiration may not be renewed thereafter. Renewal of the license within three years, or issuance of an original license thereafter, shall be subject to payment of any and all fines assessed by the chief or the director which are not pending appeal and all other applicable fees.~~

SEC. 64. *Section 6980.29 of the Business and Professions Code is repealed.*

~~6980.29.A suspended locksmith license is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. The bureau shall not issue a license renewal certificate on a suspended license until the period of suspension has terminated.~~

SEC. 65. *Section 6980.30 of the Business and Professions Code is repealed.*

~~6980.30.A locksmith whose license has been canceled pursuant to this article, may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an initial license.~~

SEC. 66. *Section 6980.31 of the Business and Professions Code is repealed.*

~~6980.31.No license issued pursuant to this chapter shall be transferred to another person.~~

SEC. 67. *Section 6980.32 of the Business and Professions Code is repealed.*

~~6980.32.Every licensee shall notify the bureau, in writing, within 30 days, of any change of residence or business address.~~

SEC. 68. *Section 6980.33 of the Business and Professions Code is amended to read:*

~~6980.33. A licensee, locksmith, or a partner or officer of a licensee, locksmith, shall carry a valid pocket identification card, issued by the bureau pursuant to Section 6980.23, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the licensee, locksmith, or partner or officer, is engaged in the work of a locksmith, as defined in this chapter, whether on or off the premises of the licensee's locksmith's place of business. Every person, while engaged in any locksmith activity for which licensure is required, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.~~

SEC. 69. *Section 6980.34 of the Business and Professions Code is repealed.*

~~6980.34.(a)Every application for a locksmith license in which the person applying desires to have the license issued under a fictitious business name shall include a certified copy of the fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.~~

~~(b)A licensee desiring to operate a locksmith business under one or more fictitious business names shall apply and qualify for an initial license for each fictitious business name.~~

~~(c) No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a locksmith business under any name, other than the name for which he or she is licensed.~~

~~(d) An application for a license for an additional fictitious business name shall be in the same form, and the applicant shall meet the same requirements, as for an initial license.~~

SEC. 70. Section 6980.35 of the Business and Professions Code is repealed.

~~6980.35. A locksmith desiring to operate a locksmith business at a location other than the principal place of business shall apply for a branch office registration for each additional location as set forth in this chapter.~~

SEC. 71. Section 6980.37 of the Business and Professions Code is repealed.

~~6980.37. A locksmith who maintains or proposes to maintain a branch office as defined in this article, shall apply and qualify for a branch office registration.~~

SEC. 72. Section 6980.38 of the Business and Professions Code is repealed.

~~6980.38. An application for a branch office registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee as set forth in this chapter.~~

SEC. 73. Section 6980.39 of the Business and Professions Code is repealed.

~~6980.39. An application for a branch office registration shall include:~~

~~(a) The full name and address of, and the telephone number at, the principal business location.~~

~~(b) The address of, and the telephone number at, the branch office.~~

SEC. 74. Section 6980.40 of the Business and Professions Code is repealed.

~~6980.40. Upon receipt of the application for a branch office registration, the chief shall issue a "Branch Office Registration." The registration shall be posted in a conspicuous place at the branch office location.~~

SEC. 75. Section 6980.41 of the Business and Professions Code is repealed.

~~6980.41. Every branch office registration issued under this chapter shall be subject to the same renewal provisions which apply to a license as provided in this chapter.~~

SEC. 76. Section 6980.42 of the Business and Professions Code is amended to read:

6980.42. (a) Within seven days after commencing employment, any employee of a locksmith who is not currently registered with the bureau and who is performing the services of a locksmith shall submit to the bureau a completed application for registration, two classifiable fingerprint cards, one set of which shall be forwarded to the Federal Bureau of Investigation for purposes of a background check, and the appropriate registration fee check. No application is required to be submitted if the employee terminated employment within seven days. "Within seven days" means 168 hours from the time an employee provides any service for which he or she shall be compensated by a licensee: locksmith.

(b) Except as provided in subdivision (c), an employee of a licensee may be assigned to work with a temporary registration card issued by the licensee until the bureau issues a registration card or denies the application for registration. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days if there is an abnormal delay in processing applications for locksmith employees. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.

(c) An employee who has been convicted of a crime prior to applying for a position as a locksmith employee performing the services of a locksmith shall not be issued a temporary registration card and shall not be assigned to work as a locksmith until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents.

(d)

(b) The bureau may impose a fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants, excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

SEC. 77. *Section 6980.44 of the Business and Professions Code is amended to read:*

6980.44. The application shall be verified and shall include the following:

- (a) The full name, residence address, telephone number, and date of birth of the employee.
- (b) The name, address, *and* telephone number, ~~and license number of the employer,~~ and the date the employment commenced.
- (c) A statement as to whether the employee has been arrested or convicted of a misdemeanor, excluding minor traffic violations.
- (d) A statement as to whether the employee has been convicted of a felony.

SEC. 78. *Section 6980.47 of the Business and Professions Code is amended to read:*

6980.47. If the director determines that continued employment of an ~~applicant or registrant,~~ *employee*, in his or her current capacity, may present an undue hazard to public safety, the ~~licensee,~~ *locksmith*, upon proper notification from the director, shall suspend the ~~applicant or registrant~~ *employee* from employment in that capacity.

SEC. 79. *Section 6980.48 of the Business and Professions Code is amended to read:*

6980.48. (a) Upon determining that the applicant is qualified ~~for registration~~ pursuant to this chapter, the bureau shall issue a pocket ~~registration~~ card to the employee. The applicant may request to be issued an enhanced pocket card that shall be composed of durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department for costs for furnishing the enhanced pocket card. The fee charged may not exceed the actual cost for system development, maintenance, and processing necessary to provide the service, and may not exceed six dollars (\$6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant.

(b) The ~~registrant~~ *employee* shall carry a valid ~~registration~~ card issued by the bureau under this section, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the ~~registrant~~ *employee* is engaged in the work of a locksmith whether on or off the premises of the ~~licensee's~~ *locksmith's* place of business. Every person, while engaged in any ~~activity for which licensure is required,~~ *locksmith activity*, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

SEC. 80. *Section 6980.49 of the Business and Professions Code is repealed.*

~~6980.49. A licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee shall not have in his or her employment a person performing the services of a locksmith whose registration has expired, or been revoked, denied, suspended, or canceled.~~

SEC. 81. *Section 6980.50 of the Business and Professions Code is repealed.*

~~6980.50. (a) All registrations shall be placed on a cyclical renewal and shall expire two years following the date of issuance or assigned renewal date.~~

~~(b) At least 60 days prior to the expiration of a registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, along with the renewal fee as set forth in this chapter.~~

~~(c) An expired registration may still be renewed within 30 days from the date of expiration provided the registrant pays a delinquency fee provided by this chapter. A registration not renewed within 30 days following its expiration may not be renewed thereafter. The holder of an expired registration may obtain a new registration only on compliance with all the provisions of this chapter relating to the issuance of an original registration. The~~

~~holder of an expired registration shall not engage in any activity requiring registration under this chapter until the bureau issues a renewal or new registration.~~

~~(d) If the renewed registration card has not been delivered to the registrant, prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration, for a period not to exceed 90 days after the date of expiration.~~

~~(e) A registration shall not be renewed until any and all fines, not pending appeal, assessed by the chief or the director have been paid.~~

SEC. 82. *Section 6980.53 of the Business and Professions Code is amended to read:*

6980.53. A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Sections 466.6 and 466.8 of the Penal Code requiring verification of identification of clients and maintenance of work orders containing required client information. A copy of each work order completed pursuant to Sections 466.6 and 466.8 of the Penal Code shall be retained for two years, shall include the name ~~and license number~~ of the locksmith performing the service, and shall be open to inspection by the bureau or any peace officer during business hours or submitted to the bureau upon request.

SEC. 83. *Section 6980.54 of the Business and Professions Code is amended to read:*

6980.54. (a) A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Section 466.6 of the Penal Code, and shall be able to duplicate any key for any vehicle from another key.

(b) A locksmith ~~licensed by the bureau~~ shall be subject to the provisions of Section 466.8 of the Penal Code, and shall be able to duplicate any key for a residence, commercial establishment, or personal property from another key, except as follows:

(1) Duplication is prohibited when a key is stamped, imprinted, marked, or incised with the wording "Do Not Duplicate" or "Unlawful To Duplicate" and includes the originator's company name and telephone number.

(2) Duplication is prohibited when a key is a Restricted Key or a High Security Key and includes the originator's company name and telephone number or registration number.

SEC. 84. *Section 6980.55 of the Business and Professions Code is amended to read:*

6980.55. (a) Any locksmith who knowingly and willfully opens any residence, or commercial establishment for another by any method involving an on-site inspection of a door or entrance, whether or not for compensation, shall obtain the street address of the residence or commercial establishment, and the signature of the person for whom the residence or commercial establishment was opened on a work order form. The following information regarding the person requesting entry to the residence or commercial property shall be recorded on a work order form:

(1) Name.

(2) Address.

(3) Telephone Number.

(4) Date of Birth.

(5) Driver's license or identification number. A copy of each work order form shall be retained for two years, shall include the name ~~and license number~~ of the locksmith performing the service, and shall be open for inspection by any peace officer or by the bureau during business hours or submitted to the bureau upon request.

(b) Any locksmith who makes keys capable of opening a motor vehicle or personal property registered under the Vehicle Code for another by any method, whether or not for compensation, shall obtain the name, date of birth, and driver's license number or identification number of the person requesting entrance, and the registration or identification number of the vehicle or personal property registered under the Vehicle Code for which entrance is requested. This information together with the date the service was performed, and the signature of the person requesting entrance, shall be set forth on a work order. A copy of each work order form shall be retained for two ~~years, shall include the license number of the locksmith performing the service, years~~ and shall be open for inspection by a peace officer or by the bureau during business hours or submitted to the bureau upon request.

SEC. 85. *Section 6980.58 of the Business and Professions Code is amended to read:*

6980.58. A licensee locksmith shall at all times be responsible for those actions of his or her employees performed in violation of this chapter, when acting within the course and scope of his or her employment.

SEC. 86. *Section 6980.59 of the Business and Professions Code is repealed.*

~~6980.59.(a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.~~

~~(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of five hundred dollars (\$500) for each subsequent violation of this section.~~

SEC. 87. *Section 6980.60 of the Business and Professions Code is repealed.*

~~6980.60. No licensee or employee shall conduct business from any location other than the location for which a license or branch office registration was issued.~~

SEC. 88. *Section 6980.61 of the Business and Professions Code is repealed.*

~~6980.61. No licensee shall conduct a business as an individual, partnership, or corporation, unless the licensee holds a valid license issued to the same individual, partnership, or corporation.~~

SEC. 89. *Section 6980.62 of the Business and Professions Code is amended to read:*

6980.62. (a) Each licensee locksmith shall maintain a file or record containing the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The files and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof and information pertaining thereto or contained therein shall be submitted to the bureau upon written request.

(b) A licensee locksmith shall respond to the bureau's request to forward copies of the files or records and information pertaining thereto or contained therein within 30 days of the bureau's request.

SEC. 90. *Section 6980.63 of the Business and Professions Code is repealed.*

~~6980.63. Within seven days, each locksmith shall verify proof of current and valid registration issued by the bureau for each employee who is subject to registration, or shall require an employee to complete and submit an application for registration, pursuant to Section 6980.42, after employing an individual who does not possess a current and valid registration from the bureau.~~

SEC. 91. *Section 6980.64 of the Business and Professions Code is amended to read:*

6980.64. (a) Every advertisement by a licensee locksmith soliciting or advertising business shall contain his or her business name, business address, or business telephone number, and license number as they appear in the records of the bureau: number.

(b) For the purpose of this section, "advertisement" includes any business card, stationery, brochure, flyer, circular, newsletter, fax form, printed or published paid advertisement in any media form, directory listing, or telephone book listing.

(c) The director may assess a fine of five hundred dollars (\$500) for the first violation of this section and one thousand dollars (\$1,000) for each subsequent violation. These fines shall be deposited in the Private Security Services Fund.

SEC. 92. *Section 6980.65 of the Business and Professions Code is repealed.*

~~6980.65. No licensee or person shall aid and abet an unlicensed or nonexempt locksmith in any activity for which a license is required. For purposes of this section, to aid or abet includes, but is not limited to, the falsification of documents or facilitation of the acquisition of locksmith tools. Any licensee or person found in violation of this~~

section shall be subject to Section 6980.14. A person shall not be subject to this section if he or she reasonably relied on a copy of a license, registration, pocket registration, or pocket identification card.

SEC. 93. *Section 6980.68 of the Business and Professions Code is amended to read:*

6980.68. No licensee *locksmith* shall willfully or deliberately disregard any building or safety laws of the state or any political subdivision thereof.

SEC. 94. *Section 6980.69 of the Business and Professions Code is amended to read:*

6980.69. No licensee *locksmith* shall fail in any material respect to complete the installation, repair, opening, or modification of a lock for the price stated in the contract for services.

SEC. 95. *Section 6980.71 of the Business and Professions Code is repealed.*

~~6980.71.(a)The director may deny a license or registration regulated by this chapter on the grounds that the applicant has done any of the following:~~

~~(1)Knowingly made a false statement of fact required to be revealed in the application for a license.~~

~~(2)Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.~~

~~(3)Committed any act involving dishonesty, fraud, or deceit, with the intent to substantially benefit himself, herself, or another, or to substantially injure another.~~

~~(4)Committed any act which, if done by a licensee, would be grounds for suspension or revocation of a license.~~

~~(5)Been refused a license under this chapter or had a license revoked.~~

~~(6)Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.~~

~~(b)The bureau may deny a license or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license or registration for which application has been made.~~

~~(c)The denial of a license or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the review shall be requested within 30 days of the issuance of the denial.~~

~~(d)Notwithstanding any other provision of this chapter, no person shall be denied a license or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 6980.72.~~

SEC. 96. *Section 6980.72 of the Business and Professions Code is repealed.*

~~6980.72.(a)When considering the denial, suspension, or revocation of a license or registration for which application has been made under this chapter, the chief, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration, shall consider all the following criteria:~~

~~(1)The nature and severity of the act or crime under consideration as grounds for denial.~~

~~(2)The applicant's total criminal record.~~

~~(3)Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, suspension, or revocation which also could be considered as grounds for denial under Section 6980.71.~~

~~(4)The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).~~

~~(5)The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.~~

~~(6)Evidence, if any, of rehabilitation submitted by the applicant.~~

~~(b)When considering a petition for reinstatement of a license or registration, the chief shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (a).~~

SEC. 97. Section 6980.73 of the Business and Professions Code is repealed.

~~6980.73.(a)The license or registration of a locksmith shall be automatically suspended if the locksmith is convicted of any crime which is substantially related to the functions, duties, and responsibilities of a locksmith. The automatic suspension shall be effectuated by the mailing of a notice of conviction and suspension of license to be sent by the bureau to the licensee at his or her address of record.~~

~~(b)The notice shall contain a statement of preliminary determination by the director or his or her designee that the crime stated is reasonably related to the functions, duties, and responsibilities of a locksmith.~~

~~(c)In enacting this section, the Legislature finds and declares that locksmiths convicted of crimes reasonably related to the functions, duties, and responsibilities of a locksmith shall be subject to automatic suspension of their license and that summary suspension is justified by compelling state interests of public safety and security within the meaning of the California Supreme Court's decision in Eye Dog Foundation v. State Board of Guide Dogs for the Blind, 67 Cal. 2d 536.~~

SEC. 98. Section 6980.74 of the Business and Professions Code is repealed.

~~6980.74.(a)The bureau may suspend or revoke a license issued pursuant to this chapter for acts including, but not limited to, any of the following acts which shall also be unlawful:~~

~~(1)Misrepresentation or concealment of a material fact in a license application.~~

~~(2)Interference with authorized personnel engaged in the enforcement or administration of this chapter.~~

~~(3)Knowingly using or permitting the use of any of his or her skills, tools, or facilities for the commission of any crime.~~

~~(4)Conviction of a crime substantially related to the qualifications, functions, or duties of a locksmith.~~

~~(5)A violation of this chapter or the rules and regulations adopted under the authority of this chapter.~~

~~(b)The bureau may suspend or revoke a license issued to a corporation or to a partnership for the commission of any act listed in subdivision (a) by an officer of the corporation or by a partner in the partnership.~~

SEC. 99. Section 6980.76 of the Business and Professions Code is repealed.

~~6980.76.The proceedings of the bureau to deny a license application, or to revoke or suspend a license, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.~~

SEC. 100. Section 6980.79 of the Business and Professions Code is repealed.

~~6980.79.The fees prescribed by this chapter are those fixed in the following schedule:~~

~~(a)A locksmith license application fee may not exceed thirty dollars (\$30).~~

~~(b)An original license and renewal fee for a locksmith license may not exceed forty five dollars (\$45).~~

~~(c)A branch office registration fee and branch office renewal fee may not exceed thirty five dollars (\$35).~~

~~(d)Notwithstanding Section 163.5, the reinstatement fee as required by Section 6980.28 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.~~

~~(e)An initial registration fee for an employee may not exceed twenty dollars (\$20).~~

~~(f)A registration renewal fee for an employee performing the services of a locksmith may not exceed twenty dollars (\$20).~~

~~(g)The fingerprint processing fee is that amount charged the bureau by the Department of Justice.~~

~~(h) All applicants seeking a license pursuant to this chapter shall also remit to the bureau the fingerprint fee that is charged to the bureau by the Department of Justice.~~

~~(i) The fee for a "Certificate of Licensure" may not exceed twenty dollars (\$20).~~

~~(j) A delinquency fee is the amount equal to the renewal fee plus a penalty of 50 percent thereof.~~

SEC. 101. *Section 6980.80 of the Business and Professions Code is repealed.*

~~6980.80. The initial application fee is considered an earned fee at the time an application for a license is received by the bureau. No refund shall be made to the applicant in the event that the applicant is found to lack the required qualifications, or is otherwise denied a license pursuant to this chapter.~~

SEC. 102. *Section 6980.82 of the Business and Professions Code is amended to read:*

~~6980.82. The director shall furnish one copy of the licensing law this chapter and rules and regulations to any applicant or licensee locksmith without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, locksmith, and for each copy furnished on request to any other person. All moneys derived pursuant to this section, except for any sales tax collected, shall be used to cover the costs of producing copies of these laws, rules and regulations, manuals, or guides. All moneys collected for sales tax shall be remitted to the State Board of Equalization.~~

SEC. 103. *Section 6980.83 of the Business and Professions Code is repealed.*

~~6980.83. Application or licensee fees shall not be refunded except in accordance with Section 158.~~

SEC. 104. *Section 6980.84 of the Business and Professions Code is repealed.*

~~6980.84. (a) There shall be a separate budget and expenditure statement, and a separate revenue statement, outlining all moneys derived from, and expended for, the licensing and regulation of locksmiths and registrants in accordance with the provisions of this chapter.~~

~~(b) If, at the end of any fiscal year, the moneys derived from the licensing of locksmiths and registrants is in surplus in an amount equal or greater than the moneys necessary for the regulation of locksmiths and registrants for the next two fiscal years, license or other fees shall be reduced during the following fiscal year by an amount that will reduce any surplus moneys derived from the licensing of locksmiths and registrants to an amount less than the moneys expended for the regulation of locksmiths and registrants for the next two fiscal years.~~

~~SEC. 5.~~ **SEC. 105.** *Section 7048.5 is added to the Business and Professions Code, to read:*

~~7048.5. This chapter does not apply to any work or operation by a C-27 landscaping contractor or D-49 tree service contractor on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items is less than twenty five thousand dollars (\$25,000). five thousand dollars (\$5,000).~~

~~SEC. 6.~~ **SEC. 106.** *Section 7316 of the Business and Professions Code is amended to read:*

7316. (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
 - (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
 - (3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
 - (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
 - (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.
- (b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a ~~barbering~~ or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

SEC. 7. SEC. 107. Section 7317 of the Business and Professions Code is amended to read:

7317. Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other than one licensed by the board, or conduct or operate an establishment, or

any other place of business in which ~~barbering, cosmetology,~~ *cosmetology* or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is subject to an administrative fine and may be subject to a misdemeanor.

SEC. 108. *Section 7321 of the Business and Professions Code is amended to read:*

7321. The board shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

- (a) Is not less than 17 years of age.
- (b) Has completed the 10th grade in the public schools of this state or its equivalent.
- (c) Is not subject to denial pursuant to Section 480.
- (d) Has done any of the following:
 - (1) Completed a course in cosmetology from a school approved by the board.
 - (2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.
 - (3) ~~Holds a license as a barber in this state and has~~ Has completed a cosmetology crossover course in a school approved by the board.
 - (4) Completed a barbering course in a school approved by the board and has completed a cosmetology crossover course in a school approved by the board.
 - (5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 109. *Section 7321.5 of the Business and Professions Code is repealed.*

~~7321.5. The board shall admit to examination for a license as a barber to practice barbering, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:~~

- ~~(a) Is not less than 17 years of age.~~
- ~~(b) Has completed the 10th grade in the public schools of this state or its equivalent.~~
- ~~(c) Is not subject to denial pursuant to Section 480.~~
- ~~(d) Has done any of the following:~~
 - ~~(1) Completed a course in barbering from a school approved by the board.~~
 - ~~(2) Completed an apprenticeship program in barbering approved by the board as conducted under the provisions of the Shelley Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.~~
 - ~~(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).~~
 - ~~(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the board.~~
 - ~~(5) Completed a cosmetology course in a school approved by the board and has completed a barber crossover course in a school approved by the board.~~
 - ~~(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.~~

SEC. 110. Section 7334 of the Business and Professions Code is amended to read:

7334. (a) The board may license as an apprentice in ~~barbering~~, cosmetology, skin care, or nail care any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

- (1) Is over 16 years of age.
- (2) Has completed the 10th grade in the public schools of this state or its equivalent.
- (3) Is not subject to denial pursuant to Section 480.
- (4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(b) The board may license as an apprentice in electrolysis any person who has made application to the board upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

- (1) Is not less than 17 years of age.
- (2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.
- (3) Is not subject to denial pursuant to Section 480.
- (4) Has submitted evidence acceptable to the board that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the board.

(c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the board prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the board in a facility approved by the board prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in board regulations for courses taught in schools approved by the board, in accordance with Sections 3074 and 3078 of the Labor Code.

SEC. 111. Section 7396 of the Business and Professions Code is amended to read:

7396. The form and content of a license issued by the board shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a ~~barber~~, cosmetologist, esthetician, manicurist, electrologist, or apprentice, and shall contain a photograph of the licensee.

SEC. 112. Section 7403 of the Business and Professions Code is amended to read:

7403. (a) Notwithstanding any other provision of law, the board may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denying a license to an applicant, the board shall provide a statement of reasons for the denial that does the following:

- (1) Evaluates evidence of rehabilitation submitted by the applicant, if any.
- (2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a ~~barber or~~ cosmetologist.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

(f) In any case in which the administrative law judge recommends that the board revoke, suspend, or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the board the reasonable costs of the investigation and adjudication of the case. For purposes of this section, "costs" include charges by the board for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(g) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(h) The board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

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

(j) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the board's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

SEC. 113. *Section 7423 of the Business and Professions Code is amended to read:*

7423. The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

(a) (1) Cosmetologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) A cosmetologist initial license fee shall not be more than fifty dollars (\$50).

(b) (1) An esthetician application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) An esthetician initial license fee shall not be more than forty dollars (\$40).

(c) (1) A manicurist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) A manicurist initial license fee shall not be more than thirty-five dollars (\$35).

~~(d)(1) A barber application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.~~

~~(2) A barber initial license fee shall be not more than fifty dollars (\$50).~~

~~(e)~~

(d) (1) An electrologist application and examination fee shall be the actual cost to the board for developing, purchasing, grading, and administering the examination.

(2) An electrologist initial license fee shall be not more than fifty dollars (\$50).

~~(f)~~

(e) An apprentice application and license fee shall be not more than twenty-five dollars (\$25).

~~(g)~~

(f) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars (\$50).

~~(h)~~

(g) Notwithstanding Section 163.5 the license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal.

~~(i)~~

(h) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.

SEC. 8. SEC. 114. Section 7533 of the Business and Professions Code is amended to read:

7533. Each licensee shall file with the bureau the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying the principal place of business. A California office is not required to comply with this section.

SEC. 9. SEC. 115. Section 7672 of the Business and Professions Code is repealed.

SEC. 116. *Section 7672.1 of the Business and Professions Code is repealed.*

~~7672.1.(a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.~~

~~(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.~~

SEC. 117. *Section 7672.2 of the Business and Professions Code is amended to read:*

7672.2. The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: ~~details about the registration and renewal requirements for cremated remains disposers;~~ requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

SEC. 118. *Section 7672.6 of the Business and Professions Code is amended to read:*

7672.6. (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and telephone number of any storage facility being used by the ~~registrant cremated remains disposer~~ to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the ~~registered~~ cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

SEC. 119. *Section 7672.8 of the Business and Professions Code is repealed.*

~~7672.8. All cremated remains disposer registrations shall expire at midnight on September 30 of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.~~

SEC. 120. *Section 7672.9 of the Business and Professions Code is repealed.*

~~7672.9. If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30 of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 7729.2.~~

SEC. 121. *Section 7672.10 of the Business and Professions Code is repealed.*

~~7672.10. Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.~~

SEC. 122. *Section 7730.1 of the Business and Professions Code is repealed.*

~~7730.1. The cremated remains disposer registration fee shall be one hundred dollars (\$100).~~

SEC. 123. *Section 7730.2 of the Business and Professions Code is repealed.*

~~7730.2. The renewal fee for a cremated remains disposer registration shall be fifty dollars (\$50).~~

SEC. 124. *Section 19051 of the Business and Professions Code is amended to read:*

19051. Every upholstered-furniture retailer, unless he or she holds an importer's license, a furniture and bedding manufacturer's license, a wholesale furniture and bedding dealer's license, ~~a custom upholsterer's license,~~ or a retail furniture and bedding dealer's license shall hold a retail furniture dealer's license.

(a) This section does not apply to a person whose sole business is designing and specifying for interior spaces, and who purchases specific amenable upholstered furniture items on behalf of a client, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer. This section does not apply to a person who sells "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2.

(b) This section does not apply to a person who is licensed as a home medical device retail facility by the State Department of Health Services, provided that the furniture is purchased from an appropriately licensed importer, wholesaler, or retailer.

SEC. 125. *Section 19059.5 of the Business and Professions Code is amended to read:*

19059.5. Every sanitizer shall hold a sanitizer's license unless he or she is licensed as a home medical device retail facility by the State Department of Health Services or as an upholstered furniture and bedding manufacturer, retail furniture and bedding dealer, ~~or retail bedding-dealer, or custom-upholsterer.~~ *dealer.*

SEC. 126. *Section 19060.6 of the Business and Professions Code is amended to read:*

19060.6. (a) Except as provided in subdivision (b), every person who, on his or her own account, advertises, solicits or contracts to manufacture, repair or renovate upholstered furniture or bedding, and who either does the work himself or herself or has others do it for him or her, shall obtain the particular license required by this chapter for the particular type of work that he or she solicits or advertises that he or she will do, regardless of whether he or she has a shop or factory.

(b) Every person who, on his or her own account, advertises, solicits or contracts to repair or renovate upholstered furniture and who does not do the work himself or herself nor have employees do it for him or her ~~but does have the work done by a licensed custom-upholsterer need not obtain a license as a custom-upholsterer~~ but shall obtain a license as a retail furniture dealer. However, nothing in this section shall exempt a retail furniture dealer from complying with Sections 19162 and 19163.

~~SEC. 127.~~ **SEC. 127.** Section 19052 of the Business and Professions Code is repealed.

SEC. 128. *Section 19170 of the Business and Professions Code is amended to read:*

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Importer's license	\$940	\$120
Furniture and bedding manufacturer's license	940	120
Wholesale furniture and bedding dealer's license	675	120
Supply dealer's license	675	120
Custom-upholsterer's license	450	80
Sanitizer's license	450	80
Retail furniture and bedding dealer's license	300	40
Retail furniture dealer's license	150	20
Retail bedding dealer's license	150	20

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

(c) Retailers who only sell "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(d) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

(e) A person who has paid the required fee and who is licensed ~~either as an upholstered furniture and bedding manufacturer or a custom-upholsterer~~ under this chapter shall not be required to additionally pay the fee for a sanitizer's license.

SEC. 11. SEC. 129. Section 1812.600 of the Civil Code is repealed.

SEC. 130. *Section 1812.607 of the Civil Code is amended to read:*

1812.607. Every auction company and auctioneer shall do all of the following:

(a) Disclose his or her name, trade or business name, ~~and telephone number, and bond number~~ *number* in all advertising of auctions. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of seventy-five dollars (\$75); and a third or subsequent violation is subject to a fine of one hundred dollars (\$100). This section shall not apply to business cards, business stationery, or to any advertisement that does not specify an auction date.

(b) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating that the auction is being conducted in compliance with Section 2328 of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Civil Code. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of seventy-five dollars (\$75); and a third or subsequent violation is subject to a fine of one hundred dollars (\$100).

(c) Post or distribute to the audience the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50); a second violation is subject to a fine of one hundred dollars (\$100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(d) Notify the Secretary of State of any change in address of record within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(e) Notify the Secretary of State of any change in the officers of a corporate license within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(f) Notify the Secretary of State of any change in the business or trade name of the auctioneer or auction company within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars (\$50).

(g) Keep and maintain, at the auctioneer's or auction company's address of record, complete and correct records and accounts pertaining to the auctioneer's or auction company's activity for a period of not less than two years. The records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the auctioneer or auction company, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the auctioneer's or auction company's own behalf or as agent, as a result of those activities. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(h) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the auctioneer or auction company. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(i) Within 30 working days after a sale transaction of goods, pay or cause to be paid all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the auctioneer or auction company, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with any other applicable provision of law. A first violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars (\$1,000); a second violation is subject to a fine of one thousand five hundred dollars (\$1,500); and a third or subsequent violation is subject to a fine of two thousand dollars (\$2,000).

(j) Maintain the funds of all owners, consignors, buyers, and other clients and customers separate from his or her personal funds and accounts. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250).

(k) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is "free and clear" if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250) in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(l) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(m) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with other applicable provisions of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

SEC. 131. *Section 1812.608 of the Civil Code is amended to read:*

1812.608. In addition to other requirements and prohibitions of this title, it is a violation of this title for any person to do any of the following:

(a) Fail to comply with any provision of this code, or with any provision of the Vehicle Code, the Commercial Code, any regulation of the Secretary of State, the Code of Civil Procedure, the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Aid or abet the activity of any other person that violates any provision of this title. A violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars (\$1,000).

(c) Place or use any misleading or untruthful advertising or statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars (\$500); and a second or subsequent violation is subject to a fine of one thousand dollars (\$1,000).

(d) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the auctioneer or auction company accepts the goods for sale. The written contract shall include all of the following:

(1) The auctioneer's or auction company's name, trade or business name, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

~~(6) A disclosure that the auctioneer or auction company has a bond on file with the Secretary of State. A first violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250); a second violation is subject to a fine of five hundred dollars (\$500); and a third or subsequent violation is subject to a fine of one thousand dollars (\$1,000).~~

(e) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction. A first violation of this subdivision is an infraction

subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(f) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(g) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars (\$250).

(h) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or by this title. A violation of this subdivision includes, but is not limited to, either of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) Allowing the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.

A violation of this subdivision is an infraction subject to a fine of one hundred dollars (\$100).

(i) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars (\$250). In addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the auctioneer or auction company of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(j) Misrepresent the terms, conditions, restrictions, or procedures under which goods will be sold at auction. A violation of this subdivision is an infraction subject to a fine of seventy-five dollars (\$75).

(k) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is an infraction subject to a fine of five hundred dollars (\$500).

**Speech-Language Pathology & Audiology
& Hearing Aid Dispensers Board
CALENDAR - FISCAL YEAR 2016/2017**

Rev 4/28/17

Rev 4/28/17

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Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board CALENDAR - FISCAL YEAR 2017/2018

Rev. 4/28/17

Month	Date	Description
July 2017	4	State Holiday – Office Closed – Fourth of July
August 2017	10-11	Board & Committee Meetings - Sacramento
September 2017	4 7-9 14-16	State Holiday – Office Closed – Labor Day California Academy of Audiology Convention – Sacramento National Council of State Boards of Examiners for Speech-Language Pathology and Audiology – New Orleans, LA
October 2017	26-27	Board & Committee Meetings – S. California
November 2017	11 9-11 23/24	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	22-25 31	CSHA Convention - Sacramento State Holiday – Office Closed – Caesar Chavez Day
April 2018	18-21 27-29	America Academy of Audiology – Nashville, TN HHP Convention - Sacramento
May 2018	10-11 28	Board & Committee Meetings -TBD State Holiday – Office Closed – Memorial Day
June 2018		

