



## **COMMITTEE AND BOARD MEETING NOTICE AND AGENDA**

*Thursday, November 29, 2018 beginning at 1:30 p.m., and continuing on  
Friday, November 30, 2018 beginning at 9:00 a.m.*

**Hearing Room**  
**2005 Evergreen Street**  
**Sacramento, CA 95815**  
**(916) 263-2666**

### **Board Members**

Dee Parker, Speech-Language Pathologist, Board Chair  
Marcia Raggio, Dispensing Audiologist, Vice Chair  
Rodney Diaz, Otolaryngologist  
Christy Cooper, Dispensing Audiologist  
Karen Chang, Public Member  
Amnon Shalev, Hearing Aid Dispenser  
Debbie Snow, Public Member  
Patti Solomon-Rice, Speech-Language Pathologist  
Vacant, Hearing Aid Dispenser

### **Full Board Meeting**

1. Call to Order / Roll Call / Establishment of Quorum
2. Approval of the August 9-10, 2018 Board 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)).*

### **Open Session**

4. Discussion and Possible Action Regarding Board Action Taken on August 9, 2018, Regarding the Examination Requirement for Dispensing Audiologists
5. Proposed Regulations – Discussion and Possible Action
  - a. Dispensing Audiologist Examination Requirement - Title 16, California Code of Regulations, Section 1399.152.4
  - b. Supervision of Trainee-Applicants, Supervision and Training Required, and Direct Supervision – Title 16, California Code of Regulations, Sections 1399.116, 1399.118, 1399.119)

**Petition for Penalty Relief – Modification of Probation  
(Time Certain: November 30, 2018 at 9:00 a.m.)**

6. Petition for Penalty Relief - Modification of Probation – David Michael Illich, AU 778

**Closed Session**

7. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate on Above Petition

**Open Session**

8. Discussion and Possible Action on Proposed Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists
9. Executive Officer's Report
  - a. Administration
  - b. Budget
  - c. Licensing
  - d. Practical Examination
  - e. Enforcement
  - f. Regulation
10. Legislation Update, Review, and Possible Action
  - a. AB 11 (McCarty) Early and Periodic Screening, Diagnosis, and Treatment Program: screening services
  - b. AB 1659 (Low) Healing arts boards: inactive licenses
  - c. AB 1801 (Nazarian) Newborns: cytomegalovirus public education and testing
  - d. AB 2138 (Chiu) Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction
11. Election of Board Officers
12. Future Agenda Items and Future Board Meeting Dates
  - a. February 7-8, 2019 Los Angeles
  - b. May 2-3, 2019 Sacramento

**Closed Session**

13. 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.
14. Pursuant to Government Code Section 11126 (a) (1), the Board Will Meet in Closed Session for the Executive Officer's Evaluation

**Return to Open Session**

15. Adjournment

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

*Action may be taken on any item on the Agenda. The time and order of agenda items are subject to change at the discretion of the Board Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. In the event a quorum of the board is unable to attend the meeting, or the board is unable to maintain a quorum once the meeting is called to order, the members present may, at the Chair's discretion, continue to discuss items from the agenda and make recommendations to the full board at a future meeting. 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.*



**BOARD MEETING MINUTES - DRAFT**  
**San Diego, CA**  
**August 9-10, 2018**

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

**Full Board Meeting**

Dee Parker, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 1:10 p.m. Ms. Parker called roll; six members of the Board were present and thus a quorum was established.

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

Board Members Present

Dee Parker, Board Chair  
Marcia Raggio, Vice Chair  
Annon Shalev, HAD, Board Member  
Patti Solomon-Rice, SLP, Board Member  
Rodney Diaz, MD, Public Board Member  
Debbie Snow, Public Board Member  
Karen Chang, Public Board Member

Staff Present

Paul Sanchez, Executive Officer  
Bryce Penney, DCA Web Cast  
Breanne Humphreys, Program Manager  
Carla Newman, Enforcement Coordinator  
Kelsey Pruden, Legal Counsel  
Katrina Martinez, Analyst

Guests Present

Jodi Wojick, AuD, CAA  
Jacque Georgeson, University of the Pacific  
Julie Purdy, Rady Children's Hospital  
Carol Mackersie, San Diego State University  
Jacob Blaschko-Iveland, UOP & California Head & Neck Specialist  
Vanessa Cajina, Hearing Healthcare Providers  
Joe Bartlett, ACA, BC-HIS, Hearing Healthcare Providers  
Christine Kirsch, San Diego State University  
Heidi Lincer, OPES  
Tracy Montez, OPES

Toni Barrient, Consumer  
Carrie Bower, CAA  
Bob McKinney, CSHA

2. Approval of the May 31 – June 1, 2018 Board Meeting Minutes

**M/S/C Shalev/Raggio**

- **Motion to approve the May 31 – June 1 meeting minutes. The motion carried 5-0 with Diaz abstaining.**

3. Public Comment for Items not on the Agenda

Mr. Sanchez discussed a letter the Board received from the International Hearing Society (IHS) regarding the United States Department of Labor's national guidelines for apprenticeships and mentorships for hearing aid specialists. Vanessa Cajina explained that the purpose of the letter was to inform the Board about the changes to the profession regarding apprentices.

4. Discussion and Possible Action on the Examination Requirement for Dispensing Audiologists.  
a. Discussion of the Requirements of Business and Professions Code Section 2539.1

Mr. Sanchez explained that this is a continued discussion from the previous Board meeting. He stated that B&P Code 2539.1 asks the Board to review the licensure requirements for dispensing audiologists after the next Occupational Analysis (OA) was completed.

b. Presentation from the Office of Professional Examination Services

Heidi Lincer explained the background and purpose of the Office of Professional Examination Services (OPES) which includes providing recommendations based on regulations, professional guidelines, and technical standards related to licensure exams. OPES uses the OA to reexamine the validity for examinations the Board requires for licensure by comparing the link between the job content and the test content. The exam must provide a reliable method for identifying practitioners who are able to practice safely and competently. Tracy Montez discussed the additional ways that the OA is used for, such as evaluating continuing education, training programs, or providing information to students/mentees. Ms. Lincer reviewed the results from the OA that were discussed at the previous Board meeting. Because the training, experience, and national exam appear to be sufficient, with very little risk to the public, OPES recommends that the Board eliminate the practical exam requirement for dispensing audiologists and remove a potential barrier to licensure. She conveyed the need to continue requiring dispensing audiologists to pass the written exam and suggested the possibility of having two different written exams.

Mr. Shalev inquired whether OPES interviewed audiologists or dispensing audiologists and expressed concern with audiologists deciding to dispense after practicing for many years without every taking an ear mold impression. Ms. Raggio brought up the fact that she learned about hearing aids and taking an ear mold impression during her time in graduate school. Mr. Shalev questioned if requiring audiologist (recent graduates) to take and pass the practical exam is a barrier for licensure. Mr. Sanchez explained that barriers to licensure are not obstacles preventing from practicing but are obstacles that make it difficult to begin practicing or get a license. Mr. Shalev opined about the risks in taking an ear mold impression. Ms. Pruden discussed the scope of practice for audiologists with regards to the fact that audiologists can fit hearing aids and take impressions, the dispensing license is for selling hearing aids  
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only. The legislative intent behind requiring audiologists taking an exam approved by the Board is to test the audiologist on aspects specific to *selling* hearing aids. Ms. Raggio explained that anyone can take ear molds and used the example of swim ear molds. Ms. Montez described the ways that OPES can assist the Board and Board staff in writing regulations that will align examination requirements with the scope of practice. Mr. Sanchez expressed the need for the Board to take the OA data, research, and analysis, and make a decision. Ms. Solomon-Rice stated that based on the OA data, dispensing hearing aids and assistive listening devices is not the majority of what an audiologist does. Mr. Diaz clarified that an audiologist may take an ear mold impression for a variety of other reasons outside of hearing aids and assistive listening devices. Mr. Shalev expressed concern for physicians gaining the ability to dispense hearing aids without needing to pass the practical exam. Ms. Raggio refuted the concern by explaining that audiologists receive training on audiometry, ear mold impressions, fitting hearing aids, etc. If a physician received this same training, the Board may need to reconsider the qualifications to dispense.

Jacque Georgeson explained that many audiologists have been and currently are taking ear mold impressions without dispensing hearing aids. Ms. Georgeson described the curriculum within the AuD program at the University of the Pacific with regards to ear mold impressions. Christine Kirsch elaborated on the curriculum within the AuD program at San Diego State University with regards to ear mold impressions and hearing aid devices. Jodi Wojick, a Board member with CAA, explained that her Master's degree program (completed about 40 years ago) included training on taking ear mold impressions.

Ms. Raggio asked OPES if the written exam's content will be looked at. Ms. Montez talked about the next step for the Board is to have OPES conduct an OA for hearing aid dispensers and reevaluate the written exam. Ms. Lincer added that the last OA for hearing aid dispensers was in 2012 and the Board will need to conduct a new one before OPES can offer any recommendations or suggestions for the written exam. Mr. Sanchez elaborated on the budget restraints for completing an OA as required and the regulatory process for changing the qualification requirements. Vanessa Cajina, from Hearing Healthcare Providers (HHP), acknowledged the importance of having an adequate workforce in health professions but stated that she and HHP would be opposed to removing the practical exam requirement for dispensing audiologists. Joe Bartlett (HHP) asked that the Board refrain from making any changes until the OA for hearing aid dispensers is completed. Mr. Sanchez questioned how waiting for the OA for hearing aid dispensers to be complete would benefit the Board's decision on examination requirements for dispensing audiologists. Mr. Shalev voiced his concern that the Board does not have a full HAD Committee as a second hearing aid dispenser member. He stated that the Board should wait before continuing the conversation or making any changes. Ms. Montez emphasized that any changes from an HAD OA should not impact the Board's decision regarding the dispensing audiology exam requirements but that the Board should consider the evidence that has been provided. She reiterated that the Board should consider the issues raised by the State's Little Hoover Commission regarding unnecessary barriers to licensure. She recommended that the Board should not wait for Board vacancies to be filled and continue moving forward with its work based on the information that has been provided.

Mr. Shalev declared his opposition to accepting the recommendations of OPES. Ms. Parker noted that a conference call between all Board Chairs was held with Director Dean Grafilo and the issue of barriers to licensure was brought up and is currently being discussed. Ms. Raggio made a motion to accept the recommendation of OPES to move forward with regulatory changes to remove the practical exam for dispensing audiologists. At that time and prior to the Board vote, Mr. Shalev stated he could no longer serve on the board and exited the meeting.

### **M/S/C Raggio/Diaz**

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- **Motion to accept the recommendation of OPES to move forward with regulatory changes to remove the practical exam for dispensing audiologists and delegate authority to Board staff to work with legal and OPES to draft regulatory language to bring to the next Board meeting. The motion carried 5-1 with Chang abstaining.**

### **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.

The Board entered into closed session at 4:23 p.m.

### **Open Session**

The Board returned to open session at 4:48 p.m.

6. Update on the Board's Consumer Fact Booklet on Hearing Loss and Hearing Aids.

Ms. Raggio provided an overview of the work she has done with Toni Barrient, from the Hearing Loss Association of America (HLAA), to develop a guidebook for consumers about hearing loss and hearing aids for adults. The guidebook is available on the Board's website and HLAA's website. The guidebook is designed for adults and does not address pediatric hearing loss purposefully. Mr. Sanchez commented on the limitations to the Board's outreach ability. He explained that if anyone would like hard copies to distribute at outreach events feel free to contact the Board.

7. Discussion and Possible Action Regarding Board Communications with California Children's Services (CCS).

Ms. Raggio gave a synopsis of the Board's efforts to establish communication lines with CCS. She discussed recent conversations between CCS, representatives from the Board, representatives from CAA, and representatives from DHS. One issue discussed was the Child Model Program which is a managed care pilot program that impacts audiologists. All children covered by Medi-Cal will go through this program to receive services. Ms. Solomon-Rice asked where the funding for this program will come from. Ms. Raggio replied that the assumption is both federal and state funding. She informed the Board that the goal is to improve regulation and policy language for clarity purposes. The problem regarding the cost of ear mold impressions being greater than the reimbursement amount was discussed without a true solution. CCS explained that they were not responsible for setting the amounts. They advised Ms. Raggio and the others to write a letter and it will be forwarded to the appropriate person. One of the desired outcomes is to have a dedicated liaison for audiologists to contact with questions. Although progress is being made, it is still a work in progress. Vanessa Cajina commented that HHP would be willing to join the effort or support in any way they can.

8. Discussion and Possible Action Regarding the Speech-Language Pathologist Credential Variable Term Waiver Program in California Public Schools

Ms. Parker discussed the variable term waiver credentials that the CTC issued to individuals who graduated with a bachelor's degree and were waiting to be accepted into master's degree programs. This waiver was being renewed for 15 years or more. The Board asked the CTC to place a limit of 5 years on the variable term waiver credential. The CTC realized that they imposed the 5-year limit without addressing the Title V regulations. Regulation changes need to be made before the limit can go into effect.

**August 10, 2018 Reconvene at 9:10 a.m.**

9. Discussion and Possible Action Regarding the July 24, 2018 FDA Letter Regarding Section 709 of the FDA Reauthorization Act of 2017 (FDARA) and Over-The-Counter (OTC) Hearing Aids and Requirements

Ms. Raggio discussed how the FDA is working on regulatory language for over-the-counter (OTC) hearing aids. The regulation may impose limitations to the Board's authority, however there have not been any real changes made as of the last update. Mr. Sanchez noted that Section 709 is not self-implementing until the effective date of the published final regulation. Dispensers should not advertise OTC hearing aids yet.

10. Executive Officer's Report

Mr. Sanchez opened with the need for Debbie Snow to be sworn in as a reappointed public Board member. Ms. Parker led Ms. Snow in the oath of allegiance.

a. Administration Update

Mr. Sanchez updated the Board on the four vacancies within the Board staff including a regulations/administration associate analyst, an office technician, an enforcement analyst, and a licensing analyst. He is currently interviewing applicants and expects to hire sometime this month.

b. Budget Report

Mr. Sanchez updated the Board with the Board's expenses and fund condition. We are expected to implement fee increases to alleviate the issue with spending more than the Board is bringing in. Ms. Solomon-Rice questioned when the fee increases will go into effect. Mr. Sanchez estimates beginning of next fiscal year.

c. Licensing Report

Mr. Sanchez shared with the Board the increase in the number of applications received during the 2017-2018 fiscal year. Because of this increase, the Board staff has seen an increased workload.

d. Practical Examination Report

Mr. Sanchez updated the Board with the April 21, 2018 practical exam results. There is one more practical exam scheduled for the year.

e. Enforcement Report

Mr. Sanchez shared with the Board the increase in the number of complaints received during the 2017-2018 fiscal year. He commented on the fact that the Board has also seen a significant increase in  
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anonymous complaints. Mr. Sanchez provided a breakdown of the number of complaints received based on license type.

f. Continuing Education (CE) Audit

Mr. Sanchez updated the Board with the results of the 2018 CE Audit. He explained the process for dealing with licensees who failed the audit. Ms. Raggio asked why there was a difference in the number of licensees who failed the audit and the number of licensees who corrected the deficiency. Ms. Raggio asked about the different reasons for failing the audit. Katrina Martinez explained that many licensees were not in compliance with the requirements for CE even though they had completed the number of CE hours (including completing too many hours of self-study or completing courses through non-approved providers). Mr. Sanchez elaborated on the fact that the Board members have approved a change for completing 50% of the CE requirement as self-study however the regulatory change has not gone into effect yet. Ms. Martinez discussed how the licensee's renewal cycle is different from ASHA's certification cycle and many licensees made the mistake of confusing the two. She explained that the Board worked with these licensees and continue to work with these licensees to make up the deficient CE hours. Mr. Sanchez added that some licensees who did not respond or were cited for not completing any CE were a result of not updating the Board (either not updating their addresses or not updating their status, i.e. retirement).

11. Discussion and Possible Action regarding RPE Direct Monitoring Requirements (As Stated in California Code of Regulations Section 1399.153.3) and Remote or Tele Supervision

Mr. Sanchez informed the Board that this is a continuation of the conversation from previous Board meetings to include regulatory language changes. Ms. Pruden provided an overview of the changes to CCR 1399.153.3 including changing direct "monitoring" to direct "supervision," placing a limit to the number of tele-supervision hours allowed, limiting the number of tele-supervision hours allowed each month, adding information regarding the supervisor being ultimately responsible for the client's consent for tele-supervision, and requiring the supervisor to evaluate or demonstrate the functions performed by the RPE before using tele-supervision. Ms. Solomon-Rice stated that the regulation language needs to be clear that the RPE cannot perform activities if the supervisor cannot demonstrate the activities before tele-supervision is allowed. Mr. Sanchez discussed how stakeholders want unlimited tele-supervision hours. Ms. Pruden stated that there will be the option for public comment.

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

- **Motion to approve regulatory changes as amended and to delegate to the Executive Officer the authority to make non-substantive changes and move forward with the 45-day public comment. The motion carried 6-0.**

12. Discussion and Possible Action regarding Supervision of Trainee-Applicants, Supervision and Training Required, and Direct Supervision (As Stated in California Code of Regulations, Sections 1399.16, 1399.118, 1399.119)

Mr. Sanchez explained that this is a continued conversation regarding the supervision requirements for hearing aid trainees and the types of supervision required. He described how a subcommittee worked on drafting the regulation language. Current regulations do not require trainees to complete a specific number of hours of training/supervision before taking the written and practical exams. HHP and others are

working on developing apprenticeship programs. The regulatory changes drafted will help clarify supervision requirements for trainees.

Ms. Pruden reviewed the proposed regulation changes for 1399.116 and the qualifications of the supervisor of a trainee. The completion of continuing education (CE) in supervision training is a new inclusion. Mr. Bartlett explained that current CE offerings do not include supervisory topics and expressed concern whether the Board would approve this course content. Ms. Solomon-Rice questioned whether 4 hours of supervision training is consistent with supervision requirements for SLPAs and RPEs. Implementing a CE requirement for trainee supervisors will help professionalize the field. Mr. Bartlett stated that HHP frequently receives questions from individuals who would like to become hearing aid dispensers and there is not a training program in place and without a supervisor willing to hire the trainee, these individuals will not have resources or training available.

Ms. Pruden discussed the proposed regulation changes for 1399.118 and asked the Board whether there should be specific timelines outlines for when training should be completed. Mr. Bartlett explained that different tasks will require different types of training. He stated that access to “real ear” equipment may result in compliance issues with regards to 1399.118(c)(10). Ms. Raggio explained that even though “real ear” equipment is included as part of American Academy of Audiology’s (AAA) best practices, only about one-third of audiologists follow this recommendation. The regulatory language will be updated to specify knowledge of verification techniques including real ear measurements, to remove limitations for trainees unable to access real ear equipment. Ms. Raggio asked how trainees are trained on masking for hearing tests. Mr. Bartlett explained that HHP is offering CE courses on masking. Supervisors and trainees need to be held accountable for ensuring trainees get adequate training. The addition of 1399.118(c)(12) will include the assessment and creation of ear mold impressions.

Ms. Pruden described the proposed changes to 1399.119 and the supervision requirements for a trainee. The Board discussed the difference between “direct” and “immediate” supervision. A requirement to provide direct supervision 100 percent of the time for the first 90 days has been added. Board staff and legal will make edits to the drafted proposed regulation language to be reviewed at the next Board meeting.

### 13. Legislation Update, Review, and Possible Actions

- a. AB 11 (McCarty) Early and Periodic Screening, Diagnosis, and Treatment Program: screening services

Ms. Raggio reported that AB 11 is currently in the suspense file with an appropriations committee until August 17, 2018. She will report back to the Board with any future updates but is under the impression that once this happens to a bill, it usually does not move forward.

- b. AB 1659 (Low) Healing arts boards: inactive licenses

Mr. Sanchez explained that AB 1659 would prohibit a licensee with an inactive license from representing that he or she has an active license. Ms. Pruden clarified that an inactive license allows the licensee to maintain a license without completing the CE requirement. To reactivate an inactive license the licensee is required to submit evidence of completion of the CE required for one renewal cycle. Mr. Sanchez added that letting a license lapse is not the same as an inactive license.

- c. AB 1801 (Nazarian) Newborns: cytomegalovirus public education and testing

Ms. Raggio commented that a certain percentage of children suffer from delayed onset hearing loss because the mother had cytomegalovirus. She reported that an operation like this (public education and testing) is costly and AB 1801 is currently in the suspense file with a senate appropriations committee. She will have more information after August 17, 2018.

d. AB 2138 (Chiu) Licensing boards: denial of application: criminal conviction

Mr. Sanchez described how AB 2138 is particularly important to the Board as it would limit the enforcement in the discipline programs of the Board. Although changes have been made, the bill was amended to allow the board authorization to deny, revoke, suspend, etc. a license or applicant only if the conviction occurred within the previous 7 years except for serious crimes. He clarified that serious crimes do not include white collar crimes. The bill would require the Board to report statistical information which would affect our workload. Mr. Sanchez opined that this would limit our ability to protect consumers. He included information regarding the Little Hoover Commission. Mr. Sanchez described the options the Board may take including opposition, opposition unless amended, etc. Ms. Chang explained that the intent of the bill is to allow convicted applicants to obtain a license and join the workforce and any amendments to the bill would remove the spirit of the bill.

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

- **Motion to oppose AB 2138. The motion carried 5-0 with Chang abstaining.**

14. Future Agenda Items and Future Board Meeting Dates

Future agenda items include tele-supervision and post-baccalaureate/SLPA discussion.

- a. November 29-30, 2018 – Sacramento
- b. February 7-8, 2019 – Los Angeles
- c. May 2-3, 2019 – TBD – San Jose, Santa Clara, or Sacramento

15. Adjournment

The meeting adjourned at 12:03 p.m.



## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action regarding Prior Board Action on the Examination Requirement for Dispensing Audiologists</b>

### BACKGROUND

At the May 31, 2018 Board meeting Heidi Lincer, Chief, Office of Professional Examination Services (OPES), presented the 2017 Occupational Analysis of the Audiology and Dispensing Audiology professions. The presentation included information regarding OPES' analysis of the examinations required for licensure of dispensing audiologists. Based on their analysis, OPES determined that audiologists wishing to dispense hearing aids should not have to take the hearing aid dispensers' practical examination and recommended that the Board evaluate whether the practical examination was creating an unnecessary barrier to licensure.

At its August 9, 2018 meeting, the Board evaluated the current examination requirements for dispensing audiologists and considered whether a different examination should be administered or if the current examinations are appropriate based on the information that was provided by OPES. Tracy Montez, Chief of DCA Programs and Policy Review and Heidi Lincer discussed OPES' findings and analysis regarding the Board's practical examination requirement for dispensing audiology licensure. Based on the analysis and information provided, the Board approved a motion to accept the OPES' recommendation to remove the HAD practical examination for dispensing audiologists and direct staff to work with legal and OPES to draft regulation language to implement this change and bring to the next Board meeting.

Board member Amnon Shalev has raised concerns regarding the Board's motion to no longer require the practical examination for dispensing audiologist licensure. Mr. Shalev is proposing that the Board delegate to the Hearing Aid Dispensing Committee the task of reviewing the Audiology Occupational Analysis and findings regarding

audiology dispensing examination requirements and make a recommendation to the Board.

Since the Board made a motion to accept OPES' recommendation and move forward with drafting regulation language regarding the examination requirements, there are steps that the Board must take if the Board chooses to have the Hearing Aid Dispensers Committee discuss the recommendation of OPES and make a recommendation to the full Board. The first is that the Board must vote to reconsider its action.

If the Board chooses not to reconsider the action taken at the August 9, 2018, board meeting, then the board's motion stands. The Board will review and discuss the proposed language in Agenda Item 5.a. Proposed Regulations regarding Dispensing Audiologist Examination Requirements.

If the Board chooses to reconsider the action taken at the August 9, 2018, Board meeting, then the Board will need to discuss their action to accept OPES' recommendation to remove the HAD practical examination requirement for dispensing audiologists. The Board may choose to keep their action as it is or to take a new action on the recommendation. If the Board chooses to keep their action as it is, then the Board would have a discussion and possible action on the proposed regulatory language. If the Board takes a new action, such as rescinding the prior action and tasking the Hearing Aid Dispensers Committee to discuss the topic and make a recommendation to the full Board at a future Board meeting, then the Board can vote to table Agenda Item 5.a. Proposed Regulations regarding Dispensing Audiologist Examination Requirements when that agenda item is up for consideration.

### **ACTION REQUESTED**

The Board should review the HAD practical exam data for audiologists and determine whether the Board should reconsider the Board action taken on August 9, 2018, regarding the Examination Requirement for Dispensing Audiologists.



## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action regarding the Dispensing Audiologist Examination Requirement</b>

### BACKGROUND

At the May 31, 2018 Board meeting Heidi Lincer, Chief, Office of Professional Examination Services (OPES), presented the 2017 Occupational Analysis of the Audiology and Dispensing Audiology professions. The presentation included information regarding OPES' analysis of the examinations required for licensure of dispensing audiologists. Based on their analysis, OPES determined that audiologists wishing to dispense hearing aids should not have to take the hearing aid dispensers' practical examination and recommended that the Board evaluate whether the practical examination was creating an unnecessary barrier to licensure.

At its August 9, 2018 meeting, the Board evaluated the current examination requirements for dispensing audiologists and considered whether a different examination should be administered or if the current examinations are appropriate based on the information that was provided by OPES. Tracy Montez, Chief of DCA Programs and Policy Review and Heidi Lincer discussed OPES' findings and analysis regarding the Board's practical examination requirement for dispensing audiology licensure. Based on the analysis and the information provided, the Board approved a motion to accept the OPES' recommendation to remove the HAD practical examination for dispensing audiologists and direct staff to work with legal and OPES to draft regulation language to implement this change and bring to the next board meeting.

### ACTION REQUESTED

Included in your materials are draft regulations to add Section 1399.152.4 to Title 16 of the California Code of Regulations regarding the Dispensing Audiologist Examination Requirement. The Board should review the proposed language and be prepared to discuss any changes or revisions to the text for the purpose of creating a rulemaking file to amend the Board's regulations.

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
AND HEARING AID DISPENSERS BOARD  
November 29-30, 2018**

**Title 16, Division 13.4  
Hearing Aid Dispensers Regulations  
Article 3. Qualifications for Licensure - Education and Clinical  
Experience**

**Proposed Language**

**Add Section 1399.152.4 Of Article 3 of Division 13.4 of Title 16 as follows:**

1399.152.4. Dispensing Audiologist Examination Requirement

An applicant for a dispensing audiology license shall meet the current licensing requirements for an audiology license and shall successfully take and pass the written examination required by Section 2538.25 of the Business and Professions Code prior to being licensed.



## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Discussion and Possible Action Regarding Supervision of Hearing Aid Dispenser (HAD) Trainee-Applicants, Supervision and Training Required, and Direct Supervision</b>

### BACKGROUND

At its October 26-27, 2017 meeting, the Board discussed concerns with the current HAD trainee and supervisor requirements. Concerns discussed included the need for clarity in the amount and types of supervision for specific tasks; supervisor requirements, and supervision types needing to be defined in regulation. The Board delegated to a subcommittee of Marcia Raggio and Amnon Shalev to work with staff and legal counsel to write draft regulatory language that further clarifies HAD trainee and supervisor requirements.

Draft regulatory language was reviewed and discussed at the August 9-10, 2018 meeting. The discussion focused on the continuing education requirements for supervising dispensers, the knowledge and skills that must be included during the training, and the requirements for direct and immediate supervision. The changes discussed at the last Board meeting are reflected in the revised regulatory proposals included in your packet.

### ACTION REQUESTED

Included in your materials are revisions to California Code of Regulations (CCR) Sections 1399.116, 1399.118, and 1399.119. Please review the two draft regulatory proposals, and be prepared to discuss any changes or revisions. The Board will also need to decide the number of continuing education requirements for supervising dispensers. Both versions of the draft regulatory proposals include the changes discussed at the August 9-10, 2018 Board meeting.

**Proposed language version 1** includes an alternative definition for direct supervision and immediate supervision as follows:



“Direct supervision” means the supervising dispenser has authorized the services to be performed by the trainee-applicant and the supervising dispenser is physically present on the premises when the services are performed.

“Immediate supervision” means that the supervising dispenser is physically present and immediately available within the service area to give aid, direction and instruction to the trainee-applicant.

**Proposed language version 2** provides an alternative continuing education requirement for supervising dispensers that is consistent with the continuing education requirement for SLPA supervisors, which consists of 6 hours of continuing education in supervision training during the first two years of supervision and 3 hours of continuing education in supervision training every two years thereafter. However, HADs are on a 1-year renewal cycle and the Board may wish to discuss adjusting the 3 hour continuing education requirement every two years to fit the HAD renewal cycle.

Version 2 also includes another alternative definition is for direct supervision and immediate supervision as follows:

“Direct supervision” means the supervising dispenser is on-site and in proximity to where the trainee-applicant is rendering services, and the supervising dispenser is available at all times to provide observation, guidance, and assistance to the trainee-applicant.

“Immediate supervision” means the supervising dispenser is physically present and providing continuous guidance and assistance to the trainee-applicant when client services are provided.

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
AND HEARING AID DISPENSERS BOARD  
November 29-30, 2018**

**Title 16, Chapter 13.3  
Hearing Aid Dispensers Regulations  
Article 3. Temporary Licenses**

**Proposed Language – Version 1**

**Amend Sections 1399.116, 1399.118, and 1399.119 of Article 6 of  
Division 13.3 of Title 16 as follows:**

1399.116. Supervision of Trainee-Applicants.

(a) A licensed hearing aid dispenser shall not supervise more than one trainee-applicant at any one time unless a specific waiver has been granted by the Board. Criteria for such a waiver shall be:

(1) the supervising dispenser shall have possessed a valid license as a hearing aid dispenser and engaged in the practice of fitting and selling hearing aids for at least three (3) years;

(2) the supervising dispenser has not been the subject of successful disciplinary action or of a complaint which has been investigated and verified by internal investigation report or the department's Division of Investigation within the preceding three (3) years; and

(3) the supervising dispenser shall not have been found to be in violation of any of the regulations contained in this article within the preceding three (3) years.

(b) A licensed hearing aid dispenser shall not in any circumstance supervise more than three (3) trainee-applicants at any one time.

(c) The supervising dispenser shall complete a minimum of four (4) hours of continuing professional development in supervision training in the two-year period prior to the commencement of supervision, and complete two (2) hours of continuing professional development in supervision every year thereafter.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 2531.4 and 2538.28, Business and Professions Code.

1399.118. ~~Supervision and~~ Training Required.

The supervision and training of a trainee<sub>1</sub>-applicant under Section 2538.28 of the Code<sub>1</sub>, engaged in the fitting or selling of hearing aids shall include the following:

(a) Intervention into the fitting and selling process by the supervisor.

(b) Inspection of the fitting and selling process by the supervisor.

(c) Training consisting of at least the following for the duration of the trainee-applicant's temporary license:

~~(1) Review and counter signing of the results of each fitting and sale of a hearing aid;~~

~~(2) Reevaluation of the fitting and selling techniques of the trainee-applicant at least weekly;~~

~~(3) Being readily available to the trainee-applicant to render advice and give instruction and assistance in the fitting and selling of hearing aids;~~

(1) Pure tone air and bone conduction audiometry;

(2) Speech Recognition Threshold;

(3) Most Comfortable Loudness;

(4) Word Recognition;

(5) Uncomfortable Loudness;

(6) Masking for pure tones and speech testing;

(7) Electroacoustic analysis equipment and essential American National Standards Institute standards;

(8) Choosing appropriate hearing aid styles relative to hearing loss, client dexterity, and cosmetic concerns;

(9) Hearing aid fitting software;

(10) Knowledge of verification techniques for hearing aid fitting including real ear measurements;

(11) Hearing aid troubleshooting; and

(12) Assessment of ear mold impression and creation of ear mold impressions.

(d) Instruction in the procedures for the fitting and selling of hearing aids required by Chapter ~~5.3~~ ~~7.5~~, Division 2 of the Code.

(e) Training with instruments and equipment generally considered to produce valid hearing measurements necessary to the fitting and selling of hearing aids.

(f) A statement that the supervisor has agreed to accept the responsibility for the supervision and training of the applicant as required by Section 2538.28 of the Code.

~~(g) The supervisor shall be responsible for providing supervision until whichever of the following first occurs:~~

~~(1) The trainee-applicant obtains a permanent license.~~

~~(2) The supervisor or trainee-applicant gives written notification to the Board that he or she is terminating supervision and training.~~

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Section 2538.28, Business and Professions Code.

### 1399.119. Direct Supervision

A trainee-applicant under Section 2538.28 of the Code shall fit or sell hearing aids only under the ~~direct~~ supervision of the supervising licensed hearing aid dispenser. Supervision shall be provided for the duration of the trainee-applicant's temporary license. "Direct sSupervision" shall mean either direct supervision or immediate

supervision. Supervision shall not include supervision by telephonic or electronic means. as used in this section means all of the following:

(a) “Direct supervision” means the supervising dispenser has authorized the services to be performed by the trainee-applicant and the supervising dispenser is physically present on the premises when the services are performed.

~~(a) “Direct supervision” means on-site observation and guidance by the supervising dispenser during services provided to the client by the trainee-applicant.~~

(b) “Immediate supervision” means that the supervising dispenser is physically present and immediately available within the service area to give aid, direction and instruction to the trainee-applicant.

~~(b) “Immediate supervision” means the supervising dispenser is physically present during services provided to the client by the trainee-applicant.~~

(c) For purposes of Section 2538.30(a), “manage” means to be in charge of, oversee, or administer the day-to-day operations of a business which engages in the fitting or sale of hearing aids.

(d) The supervising dispenser shall provide immediate supervision any time the trainee-applicant is providing one of these services: otoscopic inspection of the ear, ear impressions for hearing aids or ear molds, hearing aid programming, and audiometric evaluations.

~~(ae) The supervising dispenser is shall provide direct supervision present within the same work setting a minimum of 20 100 percent of the time in which the trainee-applicant is providing services during the first ninety (90) calendar days of the trainee-applicant’s services of fitting or selling hearing aids.~~

~~(b f) After the initial ninety (90) calendar days, with the exception of those services provided in subsection (d) which require immediate supervision for the duration of the trainee-applicant’s temporary license, Tthe supervising dispenser shall provide direct supervision for all other services to the trainee at all times. approve the selection of hearing aid by a trainee-applicant.~~

~~(eg) The supervising dispenser shall countersign the audiogram and all sales documents prepared and consummated by a trainee-applicant.~~

~~(dh) If a trainee-applicant fails the license examination, the supervising dispenser is required to be physically present at all fittings and sales made by the trainee-applicant regardless of whether these occur in or outside the supervising dispenser’s business location.~~

(i) The supervisor shall be responsible for providing supervision until whichever of the following first occurs:

(1) The trainee-applicant obtains a permanent license.

(2) The supervisor or trainee-applicant gives written notification to the Board that he or she is terminating supervision and training.

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Section 2538.28, and 2538.30, Business and Professions Code.

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
AND HEARING AID DISPENSERS BOARD**  
November 29-30, 2018

**Title 16, Chapter 13.3  
Hearing Aid Dispensers Regulations  
Article 3. Temporary Licenses**

**Proposed Language – Version 2**

**Amend Sections 1399.116, 1399.118, and 1399.119 of Article 6 of  
Division 13.3 of Title 16 as follows:**

1399.116. Supervision of Trainee-Applicants.

(a) A licensed hearing aid dispenser shall not supervise more than one trainee-applicant at any one time unless a specific waiver has been granted by the Board. Criteria for such a waiver shall be:

- (1) the supervising dispenser shall have possessed a valid license as a hearing aid dispenser and engaged in the practice of fitting and selling hearing aids for at least three (3) years;
- (2) the supervising dispenser has not been the subject of successful disciplinary action or of a complaint which has been investigated and verified by internal investigation report or the department's Division of Investigation within the preceding three (3) years; and
- (3) the supervising dispenser shall not have been found to be in violation of any of the regulations contained in this article within the preceding three (3) years.

(b) A licensed hearing aid dispenser shall not in any circumstance supervise more than three (3) trainee-applicants at any one time.

(c) The supervising dispenser shall complete not less than six (6) hours of continuing professional development in supervision training in the initial two year period from the commencement of supervision, and three (3) hours in supervision training of continuing professional development every two years thereafter.

~~(c) The supervising dispenser shall complete a minimum of four (4) hours of continuing professional development in supervision training in the two year period prior to the commencement of supervision, and complete two (2) hours of continuing professional development in supervision every year thereafter.~~

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Sections 2531.4 and 2538.28, Business and Professions Code.

HADs are on a 1-year renewal cycle. Should this requirement be adjusted to fit the renewal cycle?

1399.118. ~~Supervision and~~ Training Required.

The supervision and training of a trainee-applicant under Section 2538.28 of the Code, engaged in the fitting or selling of hearing aids shall include the following:

- (a) Intervention into the fitting and selling process by the supervisor.
- (b) Inspection of the fitting and selling process by the supervisor.
- (c) Training consisting of at least the following for the duration of the trainee-applicant's temporary license:
  - ~~(1) Review and counter signing of the results of each fitting and sale of a hearing aid;~~
  - ~~(2) Reevaluation of the fitting and selling techniques of the trainee-applicant at least weekly;~~
  - ~~(3) Being readily available to the trainee-applicant to render advice and give instruction and assistance in the fitting and selling of hearing aids;~~
  - (1) Pure tone air and bone conduction audiometry;
  - (2) Speech Recognition Threshold;
  - (3) Most Comfortable Loudness;
  - (4) Word Recognition;
  - (5) Uncomfortable Loudness;
  - (6) Masking for pure tones and speech testing;
  - (7) Electroacoustic analysis equipment and essential American National Standards Institute standards;
  - (8) Choosing appropriate hearing aid styles relative to hearing loss, client dexterity, and cosmetic concerns;
  - (9) Hearing aid fitting software;
  - (10) Knowledge of verification techniques for hearing aid fitting including real ear measurements;
  - (11) Hearing aid troubleshooting; and
  - (12) Assessment of ear mold impression and creation of ear mold impressions.
- (d) Instruction in the procedures for the fitting and selling of hearing aids required by Chapter ~~5.3 7-5~~, Division 2 of the Code.
- (e) Training with instruments and equipment generally considered to produce valid hearing measurements necessary to the fitting and selling of hearing aids.
- (f) A statement that the supervisor has agreed to accept the responsibility for the supervision and training of the applicant as required by Section 2538.28 of the Code.
- ~~(g) The supervisor shall be responsible for providing supervision until whichever of the following first occurs:~~
  - ~~(1) The trainee-applicant obtains a permanent license.~~
  - ~~(2) The supervisor or trainee-applicant gives written notification to the Board that he or she is terminating supervision and training.~~

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference: Section 2538.28, Business and Professions Code.

1399.119. ~~Direct~~ Supervision

A trainee-applicant under Section 2538.28 of the Code shall fit or sell hearing aids only under the ~~direct~~ supervision of the supervising licensed hearing aid dispenser.

Supervision shall be provided for the duration of the trainee-applicant's temporary license. "Direct supervision" shall mean either direct supervision or immediate supervision. Supervision shall not include supervision by telephonic or electronic means. as used in this section means all of the following:

(a) "Direct supervision" means the supervising dispenser is on-site and in proximity to where the trainee-applicant is rendering services, and the supervising dispenser is available at all times to provide observation, guidance, and assistance to the trainee-applicant.

~~(a) "Direct supervision" means on-site observation and guidance by the supervising dispenser during services provided to the client by the trainee applicant.~~

(b) "Immediate supervision" means the supervising dispenser is physically present and providing continuous guidance and assistance to the trainee-applicant when client services are provided.

~~(b) "Immediate supervision" means the supervising dispenser is physically present during services provided to the client by the trainee applicant.~~

(c) For purposes of Section 2538.30(a), "manage" means to be in charge of, oversee, or administer the day-to-day operations of a business which engages in the fitting or sale of hearing aids.

(d) The supervising dispenser shall provide immediate supervision any time the trainee-applicant is providing one of these services: otoscopic inspection of the ear, ear impressions for hearing aids or ear molds, hearing aid programming, and audiometric evaluations.

~~(e) The supervising dispenser shall provide direct supervision present within the same work setting a minimum of 20 100 percent of the time in which the trainee-applicant is providing services during the first ninety (90) calendar days of the trainee-applicant's services of fitting or selling hearing aids.~~

~~(e f) After the initial ninety (90) calendar days, with the exception of those services provided in subsection (d) which require immediate supervision for the duration of the trainee-applicant's temporary license, the supervising dispenser shall provide direct supervision for all other services to the trainee at all times. approve the selection of hearing aid by a trainee applicant.~~

(e) The supervising dispenser shall countersign the audiogram and all sales documents prepared and consummated by a trainee-applicant.

(e) If a trainee-applicant fails the license examination, the supervising dispenser is required to be physically present at all fittings and sales made by the trainee-applicant regardless of whether these occur in or outside the supervising dispenser's business location.

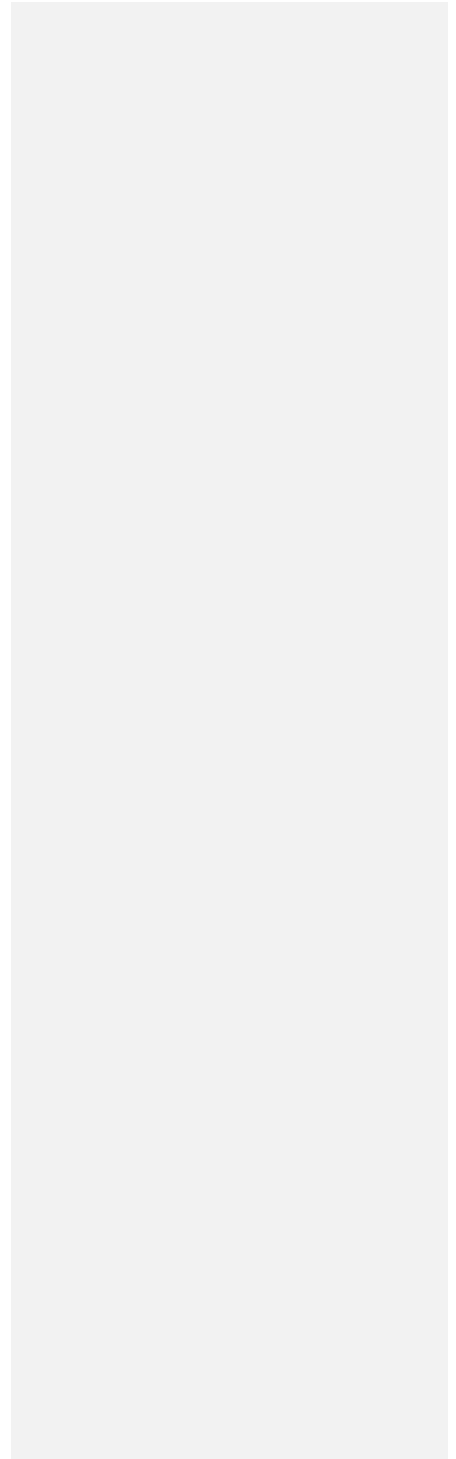
(i) The supervisor shall be responsible for providing supervision until whichever of the following first occurs:

(1) The trainee-applicant obtains a permanent license.

(2) The supervisor or trainee-applicant gives written notification to the Board that he or she is terminating supervision and training.

Version 2 – November 29-30, 2018  
Page 4

Note: Authority cited: Section 2531.06, Business and Professions Code. Reference:  
Section 2538.28, and 2538.30, Business and Professions Code.







## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Proposed Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists</b>

### BACKGROUND

Today's hearing aids are digital and require programming via specific software platforms to optimize the acoustical fit for each individual patient. While most hearing aid dispensing practices fit products from a variety of manufacturers and have access to nearly all programming software packages, there are a number of hearing aid brands that require exclusive or "locked" programming software that is only available at the dispensing outlets and group businesses that sell those brands. That is, only those facilities are able to provide any programming services since other dispensers do not have access to their proprietary software.

For the consumer, this can result in the inability to obtain subsequent servicing or reprogramming for their hearing aid(s), unless the patient returns to the office from which the hearing aid(s) was purchased, or another outlet of the same company. Consumers are harmed when they, often unknowingly, purchase hearing aids that cannot be serviced or managed in a wide geographic location. Essentially this renders the hearing aid unmanageable, unless the consumer can return to the office where it was originally purchased. In some cases, the office where the hearing aid was purchased goes out of business and the hearing aid user has no recourse except to purchase a new hearing aid. This results in consumer harm through lack of access to manage their devices.

### ACTION REQUESTED

The Board should consider whether consumers should to be made aware that the hearing aids purchased in the settings described above have programming limitations. Should hearing aid dispensers be required to disclose that certain hearing aids can only be programmed at the facility where they were purchased or another facility that dispenses that particular hearing aid product?

The Board may want to discuss specific consumer disclosure requirements for those dispensing outlets or business entities that require proprietary or “locked” software to program their hearing aids.



## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Executive Officer Report</b>

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

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

During the month of September, the Board made the following hires:

- Regulations/Administration Associate Analyst - Heather Olivares joined the Board in September and will be handling regulations, legislative analysis, and various administrative functions. Prior to coming to the Board, Heather worked in DCA's Legislative Affairs Division. Part of her assignment with DCA was providing analytical support to the Board. Heather has an extensive background in legislative analysis with various state departments.
- Enforcement Analyst – The Board recently hired Eli Heredia as an Associate Analyst to handle enforcement investigations. Eli has worked with the City and County of Sacramento Code Enforcement as an investigating officer. Eli will be responsible for enforcement duties including handling complaints, investigations, and citations.

Carla Newman, the Board's special investigator recently transferred to CalFire for a promotional opportunity. Carla's departure leaves the Board with two vacancies that include the special investigator and an office technician position. We are in the process of recruiting for both of these positions and hope to have them filled in the coming month.

**Budget**

Included in your Board materials is the most recent Expenditure Projection Report which reflects expenditures through November 1, 2018. Based on this report, we are projected to spend over 92 percent of our budget which is within our projections for the year.

**Licensing/Exams/Enforcement**

Licensing Cycle Times – The chart below provides a snapshot the Board’s licensing cycle times for the current and past four quarters. The number of licenses processed continues to increase in most licensing categories. Licensing staff continue to meet or exceed its performance goals in licensing for the 2017-18 fiscal year.

Licensing Cycle Times	11/1/17	2/1/18	5/1/18	8/1/18	11/1/18
SLP and Audiologists Complete Licensing Applications	4 weeks	1 week	1 week	2 weeks	3 weeks
Review and Process SLP and Audiologist Supporting Licensing Documents	6 weeks	1 week	1 week	1 week	1 weeks
Review and Process RPE Applicant’s Verification Forms for Full Licensure	3 weeks	2 weeks	1 week	1 week	2 weeks
Hearing Aid Dispensers Applications	3 weeks	Current	Current	Current	Current

Practical Examination – Included in your Board materials is a summary of the results of the Hearing Aid Dispensers Practical Examination held on July 21, 2018. Below are the upcoming Practical Examination and Filing Dates:

Date of Exam:	Location:	Filing Periods:
January 26, 2019	Sacramento	December 7, 2018 to December 28, 2018
April 6, 2019	Sacramento	February 14, 2019 to March 7, 2019
July 27, 2019	Sacramento	June 6, 2019 to June 27, 2019
November 16, 2019	Sacramento	September 26, 2019 to October 17, 2019

Enforcement – There are currently 16 formal discipline cases pending with the Attorney General’s Office. The Board is currently monitoring 28 probationers of which 8 probationers require drug or alcohol testing and 10 are in a tolled status.

The following disciplinary actions have been adopted by the Board during the past 12 months:

<b>Name</b>	<b>License No.</b>	<b>License Type</b>	<b>Case No.</b>	<b>Effective Date</b>	<b>Action Taken</b>
Vega, Paige Roschelle	SP 21885	Speech-Language Pathologist	D1-2014-070	September 10, 2018	Probation extended six months and ordered to pay prosecution costs.
Swanson, Robin	HA 3104	Hearing Aid Dispenser	D1-2012-98	September 13, 2018	Revocation stayed, actual suspension, 4 years probation.
Krone, Elizabeth	HA 2662	Hearing Aid Dispenser	D1-2012-85	August 20, 2018	Revocation.
Geraci-Staub, Julianne	HA 7587	Hearing Aid Dispenser	1C 2015 006	July 18, 2018	Revocation stayed, three years probation with specified terms and conditions.
Ling, Kyle York	HA 7954	Hearing Aid Dispenser	1C 2015 090	April 29, 2018	Revocation stayed, four years probation (Conditional upon passing written and practical hearing aid dispensers examination) with specified terms and conditions.
Reynolds, Maria	SP 18467	Speech-Language Pathologist	1I 2017 037	February 20, 2018	Stipulated surrender of license.
Garrett, Bobbie Lee	AU 690	Audiologist	1I 2015 43	December 8, 2017	Stipulated surrender of license.
Ferguson, Caitlin	SPA 2718	Speech-Language Pathology Assistant	1C 2014 034	December 5, 2017	Revocation of license.
Keeler, John	HA 2693	Hearing Aid Dispenser	1C 2016 029	October 27, 2017	Revocation stayed, four years probation with specified terms and conditions.
Simon, Christopher	HA 7485	Hearing Aid Dispenser	1C 2014 007	October 26, 2017	Revocation stayed, five years probation with specified terms and conditions.

**Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board - 0376**

**FY 2018-19 BUDGET REPORT**

Based on 11/1 Activity Log

OBJECT DESCRIPTION	FY 2017-18		FY 2018-19				
	ACTUAL	PRIOR YEAR	GOVERNOR'S	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	BUDGET	EXPENDITURES			
(MONTH 13)	(MONTH 4)	2017-18	(11/1 Activity Log)	SPENT	TO YEAR END	BALANCE	
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	478,930	151,081	619,000	103,234	17%	547,056	71,944
Statutory Exempt (EO)	91,296	30,432	82,000	23,736	29%	94,944	(12,944)
Temp Help Reg (Seasonals)	7,121	3,827	1,000	118	12%	7,121	(6,121)
Temp Help (Exam Proctors)	720	0	0	0	0%	0	0
Board Member Per Diem	3,900	1,300	6,000	1,300	0%	3,900	2,100
Overtime	16,686	6,827	5,000	8,516	170%	20,814	(15,814)
Staff Benefits	308,691	100,184	382,000	68,781	18%	347,778	34,222
<b>TOTALS, PERSONNEL SVC</b>	<b>907,344</b>	<b>293,651</b>	<b>1,095,000</b>	<b>205,685</b>	<b>19%</b>	<b>1,021,613</b>	<b>73,387</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	37,651	5,579	74,000	9,958	13%	67,204	6,796
Printing	11,643	622	25,000	418	2%	7,824	17,176
Communication	5,668	726	20,000	1,189	6%	9,283	10,717
Postage	21,482	11,113	24,000	60	0%	21,482	2,518
Insurance	2,831	0	0	0	0%	0	0
Travel In State	14,266	2,357	24,000	1,125	5%	14,266	9,734
Travel Out-of-State	0	0	0	0	0%	0	0
Training	0	0	9,000	0	0%	0	9,000
Facilities Operations	170,844	20,933	142,000	27,147	19%	108,588	33,412
C & P Services - Interdept.	38	0	24,000	0	0%	0	24,000
C & P Services - External	20,666	6,245	0	15,069	0%	60,276	(60,276)
<b>DEPARTMENTAL SERVICES:</b>							
Office of Information Services Pro Rata	158,286	52,762	187,000	62,333	33%	187,000	0
Administration Pro Rata	152,361	50,787	180,000	60,000	33%	180,000	0
DOI - Special Ops Unit Pro Rata	4,232	1,411	5,000	1,667	33%	5,000	0
Communication Division Pro Rata	9,311	3,104	11,000	3,667	33%	11,000	0
Public Policy Review Division Pro Rata	7,618	2,539	9,000	3,000	33%	9,000	0
<b>INTERAGENCY SERVICES:</b>							
Interagency Services	332	0	29,000	39	0%	500	28,500
IA w/ OPES	3,615	0	60,000	498	1%	4,000	56,000
Consolidated Data Center	3,258	90	10,000	58	1%	4,000	6,000
DP Maintenance & Supply	1,240	574	17,000	0	0%	1,000	16,000
<b>EXAM EXPENSES:</b>							
Exam Site Rental	0	0	8,000	0	0%	0	8,000
C/P Svcs-External Expert Administrative	1,620	0	25,000	0	0%	2,000	23,000
C/P Svcs-External Subject Matter	44,524	0	38,000	10,207	0%	40,828	(2,828)
<b>ENFORCEMENT:</b>							
Attorney General	133,121	12,008	97,000	11,352	12%	133,121	(36,121)
Office Admin. Hearings	45,135	0	22,000	0	0%	45,135	(23,135)
Court Reporters	4,725	0	0	0	0%	5,000	(5,000)
Evidence/Witness Fees	7,069	250	7,000	2,450	35%	15,000	(8,000)
DOI - Investigations	141,289	0	200,000	66,667	33%	200,000	0
<b>MISC:</b>							
Equipment	3,220	0	17,000	0	0%	17,000	0
<b>TOTALS, OE&amp;E</b>	<b>1,006,045</b>	<b>171,100</b>	<b>1,264,000</b>	<b>276,904</b>	<b>22%</b>	<b>1,148,507</b>	<b>115,493</b>
<b>TOTAL EXPENSE</b>	<b>1,913,389</b>	<b>464,751</b>	<b>2,359,000</b>	<b>482,589</b>	<b>20%</b>	<b>2,170,120</b>	<b>188,880</b>
Sched. Reimb. - Fingerprints	(36,995)	(14,405)	(31,000)	(12,925)	42%	(31,000)	0
Sched. Reimb. - Other	(5,640)	0	(2,000)	0	0%	(2,000)	0
Unsched. Reimb. - Other	(40,164)	(7,954)	0	(8,425)	0	0	0
<b>NET APPROPRIATION</b>	<b>1,830,590</b>	<b>442,392</b>	<b>2,326,000</b>	<b>461,239</b>	<b>20%</b>	<b>2,137,120</b>	<b>188,880</b>
<b>SURPLUS/(DEFICIT):</b>							<b>8.1%</b>

Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board

LICENSES ISSUED	FY13/14	FY14/15	FY15/16	FY16/17	FY17/18	FY 18/19
						QTR 1
AU	57	89	48	53	77	33
DAU	UA	UA	26	24	30	15
AUT	0	0	0	0	2	1
SLP	974	1143	1352	1457	1482	460
SPT	0	0	0	0	0	0
SLPA	325	550	606	501	558	190
RPE	702	836	834	897	945	530
AIDE	40	48	44	44	33	9
CPD	15	17	22	21	20	6
HAD Permanent	49	92	140	120	137	32
HAD Trainee	139	145	180	152	169	44
HAD Licensed in Another State	5	9	16	16	20	3
HAD Branch	282	426	407	315	341	55
<b>TOTAL LICENSES ISSUED</b>	<b>2588</b>	<b>3355</b>	<b>3675</b>	<b>3600</b>	<b>3814</b>	<b>1378</b>

LICENSEE POPULATION	FY13/14	FY14/15	FY15/16	FY16/17	FY17/18	FY 18/19
				*	*	QTR 1
AU	584	612	556	698	720	739
DAU	971	988	1,045	1,211	1,246	1,262
<i>Both License Types</i>	<i>1,555</i>	<i>1,600</i>	<i>1,601</i>	<i>1,909</i>	<i>1,966</i>	<i>2,001</i>
AUT	0	0	0	0	0	0
SLP	13,285	13,967	14,860	18,024	19,161	19,531
SPT	0	0	0	0	0	0
SLPA	1,969	2,343	2,795	3,752	4,118	4,251
RPE	768	802	806	1,174	1,232	1,514
AIDE	119	124	133	235	216	222
HAD	913	948	996	1,179	1,266	1,275
HAD Trainees	145	160	158	238	204	209
HAD Licensed in Another State	8	7	18	18	28	26
HAD Branch Office	710	821	963	1,409	1,297	1,245
<b>TOTAL LICENSEES</b>	<b>19,472</b>	<b>20,772</b>	<b>22,330</b>	<b>27,938</b>	<b>29,488</b>	<b>30,274</b>

July 21, 2018 Hearing Aid Dispensers Practical Examination

Candidate Type	Number of Candidates	Passed	%	Failed	%
<b>Applicants with Supervision (Temporary License)</b>					
HA	28	23	82	5	18
AU	5	4	80	1	20
RPE	1	1	100		
<b>Aide</b>					
<b>Applicants Licensed in Another State (Temporary License)</b>					
HA	6	4	67	2	33
AU	1	1	100		
<b>Applicants without Supervision</b>					
HA	4	4	100		
AU	2	2	100		
RPE	6	5	100	1	
		<b>Passed</b>	<b>%</b>	<b>Failed</b>	<b>%</b>
<b>Total Number of Candidates</b>	53	44	83	9	17



Speech-Language Pathology Audiology Hearing Aid Dispensers Board

**ENFORCEMENT REPORT**

<b>COMPLAINTS AND CONVICTIONS</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Complaints Received	74	43	75	59	154	157	25	27
Convictions Received	27	58	15	84	24	101	6	22
Average Days to Intake	2	2	3	2	2	2	1	5
Closed	109	130	76	124	121	214	18	18
Pending	46	31	56	51	117	100	125	130

<b>INVESTIGATIONS Desk</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Assigned	101	101	90	143	178	257	22	46
Closed	107	124	71	118	113	205	14	14
Average Days to Complete	107	138	132	91	201	73	169	212
Pending	42	30	45	39	104	89	115	119

<b>INVESTIGATIONS DOI</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Assigned	0	2	11	9	10	7	2	5
Closed	2	6	5	6	8	9	4	4
Average Days to Complete	392	382	148	709	442	497	771	760
Pending	4	1	11	12	13	10	10	11

<b>ALL TYPES OF INVESTIGATIONS</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Closed Without Discipline	93	112	69	111	116	197	17	17
Cycle Time - No Discipline	74	115	125	69	210	73	303	280

<b>CITATIONS/Cease&amp;Desist</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Issued	4	5	8	8	9	12	0	5
Avg Days to Complete Cite	195	305	98	44	7	169	0	41
Cease & Desist Letter	0	1	1	1	2	1	1	0

# Speech-Language Pathology Audiology Hearing Aid Dispensers Board

<b>ATTORNEY GENERAL CASES</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Pending at the AG	18	16	8	6	7	11	6	10
Accusations Filed	8	19	2	3	3	2	0	3
SOI Filed	2	2	0	0	1	1	1	1
Acc Withdrawn, Dismissed, Declined	1	0	2	1	2	1	0	1
SOI Withdrawn, Dismissed, Declined	0	0	1	1	0	0	0	0
Average Days to Discipline	888	507	1260	979	780	723	1292	0

<b>ATTORNEY GENERAL FINAL OUTCOME</b>	<b>FISCAL YEAR 2015 - 2016</b>		<b>FISCAL YEAR 2016 - 2017</b>		<b>FISCAL YEAR 2017 - 2018</b>		<b>Quarter 1 2018 - 2019</b>	
	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>	<b>HAD</b>	<b>SP/AU</b>
Probation	1	5	6	7	2	1	1	0
Surrender of License	1	1	3	1	1	2	0	0
License Denied (SOI)	0	0	0	0	0	0	0	0
Suspension & Probation	0	1	0	0	0	0	0	0
Revocation-No Stay of Order	1	2	0	2	1	0	0	0
Public Reprimand/Reproval	0	0	0	0	0	1	0	0



## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Legislation Update and Review</b>

### BACKGROUND

Throughout the past year the Board discussed several pending legislative bills. The 2018 legislative session ended on August 31, and the Governor had until September 30 to sign or veto legislative bills. The following is a summary of the final legislative outcome for bills of interest to the Board.

#### **AB 11 (McCarty) Early and Periodic Screening, Diagnosis, and Treatment Program: screening services**

This bill would have required screening services under the Early and Periodic Screening, Diagnostic and Treatment program to include developmental screening services for individuals zero to 3 years of age. This bill would have also required an external quality review organization to review, survey, and report on managed care plan reporting and compliance with specified developmental screening tools and schedules. *This bill was Vetoed by the Governor because the Medi-Cal State Plan already requires providers to screen children for developmental delays according to the recommended American Academy of Pediatrics schedule, and codifying this requirement and requiring another costly report is not necessary.*

#### **AB 1659 (Low, Chapter 249, Statutes of 2018) Healing arts boards: inactive licenses**

This bill prohibits a licensee with an inactive license from representing that he or she has an active license and authorizes healing arts boards to establish a lower renewal fee for an inactive license.

#### **AB 1801 (Nazarian) Newborns: cytomegalovirus public education and testing**

This bill would have required the State Department of Health Care Services to establish a commission on Cytomegalovirus Public Education and Testing to examine research and data relating to congenital cytomegalovirus, and would have required the commission to

submit a report to the Legislature by December 31, 2019, and an additional report by December 31, 2022. *This bill was Vetoed by the Governor because researching, educating, and testing for diseases in newborns is the function of the Department of Public Health's Newborn Screening program, and creating a new governmental body in a different department is not necessary.*

**AB 2138 (Chiu, Chapter 995, Statutes of 2018) Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction**

Beginning July 1, 2020, this bill restricts the discretion of boards within the Department of Consumer Affairs in using prior criminal history as grounds for licensing determinations and establishes new prohibitions relating to the denial, suspension, and revocation of licensure. This bill prohibits boards from using acts involving dishonesty, fraud, or deceit that did not result in a conviction as a basis for the denial of a license. This bill also establishes a seven-year limitation on convictions eligible for licensure denial and bans requiring applicants to self-disclose prior convictions. This bill also requires boards to track data relating to licensure denials, publish the data on its website, and submit an annual report to the Legislature.

**ACTION REQUESTED**

This item is a follow-up on legislation the Board discussed during the past year. No action is required.

**Assembly Bill No. 11**

\_\_\_\_\_

Passed the Assembly August 31, 2018

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 23, 2018

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Section 14132.195 to, and to add and repeal Section 14197.07 of, the Welfare and Institutions Code, relating to Medi-Cal.

## LEGISLATIVE COUNSEL'S DIGEST

AB 11, McCarty. Early and Periodic Screening, Diagnosis, and Treatment Program: screening services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for any individual under 21 years of age who is covered under Medi-Cal consistent with the requirements under federal law. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

Existing federal law provides that EPSDT services include periodic screening services, vision services, dental services, hearing services, and other necessary services to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not the services are covered under the state plan.

This bill would require, consistent with federal law, that screening services under the EPSDT program include developmental screening services for individuals zero to 3 years of age, inclusive. Until July 1, 2023, the bill would require an external quality review organization entity to annually review, survey, and report on managed care plan reporting and compliance with specified developmental screening tools and schedules. The bill would also make legislative findings and declarations relating to child development.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Not all children experience a clear path toward healthy development, making the early identification of developmental concerns and the timely connection to appropriate intervention essential to a child's well-being.

(b) Despite the prevalence of developmental delays and disorders, the overall rate of developmental screening remains low and the use of validated screening tools is often inconsistent.

(c) Many children at risk for developmental delays or disabilities due to environmental or biological factors are not identified in a timely fashion, greatly reducing the effectiveness of applied intervention.

(d) The Bright Futures Guidelines by the American Academy of Pediatrics provide evidence-driven guidance for all preventive care screenings and well-child visits, recommending that developmental surveillance include the periodic administration of a standardized developmental screening test.

(e) Early access to appropriate intervention for children with developmental delays and disabilities is critically important for healthy and optimal development.

SEC. 2. Section 14132.195 is added to the Welfare and Institutions Code, immediately following Section 14132.19, to read:

14132.195. Consistent with federal law, screening services provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit pursuant to subdivision (v) of Section 14132 shall include developmental screening services for individuals zero to three years of age, inclusive.

SEC. 3. Section 14197.07 is added to the Welfare and Institutions Code, to read:

14197.07. (a) As part of the federally required external quality review organization (EQRO) review of Medi-Cal managed care plans in the annual detailed technical report required by Section 438.364 of Title 42 of the Code of Federal Regulations, effective for contract periods commencing on or after July 1, 2018, the EQRO entity shall annually review, survey, and report on managed care plan reporting and compliance with the use of the validated developmental screening tools and periodicity schedule recommended by the American Academy of Pediatrics for children zero to three years of age, inclusive.

(b) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.









Approved \_\_\_\_\_, 2018

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*Governor*

## Assembly Bill No. 1659

### CHAPTER 249

An act to amend Sections 701, 702, and 703 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 5, 2018. Filed with Secretary of State September 5, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1659, Low. Healing arts boards: inactive licenses.

Existing law establishes healing arts boards in the Department of Consumer Affairs to ensure private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law requires each healing arts board to issue inactive licenses to holders of active licenses whose license is not punitively restricted by that board. Existing law prohibits the holder of an inactive license from engaging in any activity for which an active license is required. Existing law requires the renewal fee for an active license to apply to an inactive license.

This bill would prohibit the holder of an inactive license from representing that he or she has an active license. The bill would also authorize a healing arts board to establish a lower inactive license renewal fee.

*The people of the State of California do enact as follows:*

SECTION 1. Section 701 of the Business and Professions Code is amended to read:

701. (a) As used in this article, "board" refers to any healing arts board, division, or examining committee which licenses or certifies health professionals.

(b) Each healing arts board referred to in this division shall issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.

SEC. 2. Section 702 of the Business and Professions Code is amended to read:

702. The holder of an inactive healing arts license or certificate issued pursuant to this article shall not do any of the following:

(a) Engage in any activity for which an active license or certificate is required.

(b) Represent that he or she has an active license.

SEC. 3. Section 703 of the Business and Professions Code is amended to read:

703. (a) An inactive healing arts license or certificate issued pursuant to this article shall be renewed during the same time period at which an active license or certificate is renewed. In order to renew a license or certificate issued pursuant to this article, the holder thereof need not comply with any continuing education requirement for renewal of an active license or certificate.

(b) The renewal fee for a license or certificate in an active status shall apply also for renewal of a license or certificate in an inactive status, unless a lower fee has been established by the issuing board.

**Assembly Bill No. 1801**

\_\_\_\_\_

Passed the Assembly August 27, 2018

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 21, 2018

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add and repeal Article 6.7 (commencing with Section 124123) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, relating to newborns.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1801, Nazarian. Newborns: cytomegalovirus public education and testing.

Existing law requires the State Department of Public Health to establish a statewide program for the screening of newborns for specified genetic diseases. Existing law requires the department to establish a genetic disease unit to, among other things, evaluate and prepare recommendations on the implementation of tests for the detection of hereditary and congenital diseases. Existing law also requires the department to establish a statewide birth defects monitoring program.

Existing law, the Newborn and Infant Hearing Screening, Tracking and Intervention Act, requires a general acute care hospital with licensed perinatal services to administer to a newborn, upon birth admission, a hearing screening test for the identification of hearing loss, using protocols approved by the State Department of Health Care Services or its designee, unless the newborn's parent or guardian objects to the test, as specified. Existing law requires the department to develop and implement a reporting and tracking system for newborns and infants tested for hearing loss, as specified. Existing law authorizes the department to conduct a community outreach and awareness campaign to inform medical providers, pregnant women, and the families of newborns and infants about the newborn hearing screening program, as specified.

This bill would, until January 1, 2023, require the State Department of Health Care Services to establish a commission on Cytomegalovirus (CMV) Public Education and Testing. The bill would require the commission to examine research and data relating to congenital CMV, as specified. The bill would require the director of the department to appoint members to the commission, as specified. The bill would require the commission to submit a report to the Legislature on or before December 31,



2019, and an additional report on or before December 31, 2022, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Article 6.7 (commencing with Section 124123) is added to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, to read:

Article 6.7. Establishing a Commission on Cytomegalovirus  
Public Education and Testing

124123. As used in this article, the following definitions apply:

- (a) “CMV” means cytomegalovirus.
- (b) “Newborn” shall have the same meaning as provided in Section 124116.
- (c) “Department” means the State Department of Health Care Services.

124123.1. (a) The department shall establish a Commission on CMV Public Education and Testing. The commission shall be required to implement this article only to the extent funds are appropriated by the Legislature for these purposes.

(b) It is the intent of the Legislature that the reports submitted pursuant to this article be used as a resource for possible legislation to examine and identify potential public educational resources to inform pregnant women and women who may become pregnant about CMV and to identify children born with CMV in order to improve their health and developmental outcomes.

124123.2. (a) The commission shall submit a report no later than December 31, 2019, and an additional report no later than December 31, 2022, that includes its findings. The commission may submit additional reports, as it deems it appropriate. The reports may also include recommendations for possible legislation. The commission shall distribute its reports to the appropriate policy committees of the Legislature. The department shall make the reports publicly available on its Internet Web site.

(b) If the commission deems it appropriate to make recommendations, including, but not limited to, legislative recommendations, those recommendations shall be evidence-based and data driven.

(c) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

124123.3. (a) The commission shall consist of 13 members, appointed by the director of the department, as follows:

(1) One member who is an infectious disease specialist who has experience with CMV.

(2) One member who is an obstetrician.

(3) One member who is a family physician and is involved with management of pregnancy and delivery of newborns.

(4) One member who is a labor and delivery nurse or nurse manager.

(5) One member who is a parent of a child that has been affected with a birth defect resulting from infection with CMV.

(6) One member who is a general pediatrician who practices primary care.

(7) One member from the California Department of Public Health Newborn Screening Program.

(8) One member from the State Department of Health Care Services Newborn Hearing Screening Program.

(9) One member who is an audiologist.

(10) One member who is a pediatric otolaryngologist.

(11) One member who is a pediatric speech therapist.

(12) One member who is a representative of health plans or insurers.

(13) One member who is a representative of hospitals.

(b) The department shall designate a member to serve as the chair of the commission.

(c) All appointments shall be made no later than January 31, 2019. Within 15 days after appointment of all members, the chair shall convene the initial meeting of the commission.

(d) The commission shall meet at least once every six months.

124123.4. (a) The commission shall examine research and data relating to, but not limited to, early identification, testing of congenital CMV, and appropriate treatment of birth defects caused by congenital CMV.

(b) The commission shall also examine and identify possible public educational resources to inform pregnant women and women who may become pregnant that include, but are not limited to:

(1) Information regarding the incidence of CMV.

- (2) The transmission of CMV during and before pregnancy.
- (3) Birth defects caused by congenital CMV.
- (4) Methods of diagnosing congenital CMV.
- (5) Available preventive measures.
- (6) Resources for the family of a child born with congenital CMV.

(c) The department shall provide or recommend necessary staffing services to the commission, including, but not limited to, staffing offered through the California Medical Association or the California Chapter of the American Academy of Pediatrics, to the extent permitted by law.

124123.5. This article shall remain in effect only until January 1, 2023, and as of that date is repealed.





Approved \_\_\_\_\_, 2018

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*Governor*

## Assembly Bill No. 2138

### CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with  
Secretary of State September 30, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from

denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board 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 the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.



Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board 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. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(A) The State Athletic Commission.

(B) The Bureau for Private Postsecondary Education.

(C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) 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 that a board 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 the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.

- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing

with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) “Conviction” as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false

statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, 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 that the Bureau for Private Postsecondary

Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, 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 the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(1) Considering the denial of a license by the board under Section 480;  
or

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:



(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.
- (2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.
- (c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”
- (d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
  - (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser

refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

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## MEMORANDUM

<b>DATE</b>	November 19, 2018
<b>TO</b>	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board
<b>FROM</b>	Paul Sanchez, Executive Officer
<b>SUBJECT</b>	<b>Board Election of Officers</b>

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 at the May 2017 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 the executive officer. Communicates frequently with the executive officer regarding Board, departmental, legislative, or statewide regulatory issues relating to the practices of speech-language pathology, audiology and hearing aid dispensing. Convenes Board discussions for evaluating executive officer 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.
- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization.

**Role of Vice Chair**

- **Board Business:** Performs the duties and responsibilities of the chair when the Board chair is absent. Assist with tasks as delegated by Board chair.
- **Budget/Administration:** Act as the Board's liaison in monitoring the Board's budget and administrative functions.

**ACTION REQUESTED**

Elect a chairperson and vice chairperson to serve a one-year term beginning January 1, 2019.