

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

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**TELEPHONIC BOARD MEETING MINUTES
November 26, 2012**

**Department of Consumer Affairs
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board**
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(951) 679-1139

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

Board Members Present

Sandra Danz, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Monty Martin, M.A., Public Member
Carol Murphy, M.A., Speech-Language Pathologist
Alison Grimes, Au.D., Audiologist
Jaime Lee, J.D., Public Member
Patti Solomon-Rice, Ph.D., Speech-Language Pathologist

Staff Present

Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel

Board Members Absent

Rodney Diaz, M.D., Public Member

Guests Present

Trisha Hunter, Hearing Health Care Providers of CA

I. Call to Order

Ms. Del Mugnaio called the meeting to order at 2:35 p.m.

II. Introductions

Those present introduced themselves.

III. Proposed Regulations

Consideration and Possible Approval of the Modified Text for the Consumer Protection Enforcement Initiative (California Code of Regulations 1399.110, 1399.130, 1399.130.1, 1399.131, 1399.150.3, 1399.151, 1399.155, 1399.156, & 1399.156.5)

Ms. Del Mugnaio reported that the Office of Administrative Law (OAL) had issued a Decision of Disapproval of Regulation Action on October 30, 2012, in response to the Board's rulemaking file regarding enforcement program enhancements/consumer protection enforcement initiative. The OAL cited in their decision that the proposed language failed to meet the clarity, authority, and reference standards for promulgating regulations. Ms. Del Mugnaio reviewed the proposed language that required further modification based on OAL's decision. She referenced the proposed modified text for consideration by the Board and outlined each change:

- Amending both subdivision (a) of Section 1399.130 and subdivision (d) of Section 1399.156 removing the term "sexual misconduct" and replacing the text with a reference to Sections 1399.131 and 1399.155, respectively as the sections include concise definitions of the term "sex offense," and with the proposed changes to subdivision (a) of Section 1399.130 and subdivision (d) of Section 1399.156 a "sex offense" will be deemed a violation of law or unprofessional conduct.
- Several "authority" and "reference" citations cited by the Board in the initial text were cited incorrectly, or additional "reference" citations needed to be added to the regulation text. The Board in consult with OAL made the appropriate revisions to the authority and reference citations for each regulation in the proposed action.
- Amending subdivision (b) of Section 1399.130 and subdivision (e) of Section 1399.156 to reflect a new statute enacted through the passage of Assembly Bill 2570, in 2012, which added Section 143.5 to the Business and Professions Code. The statute prohibits a licensee who is regulated by the Board from including a provision in an agreement to settle a civil dispute that prohibits the other party in the dispute from contacting, filing a complaint with, or cooperating with the Board, or that requires the other party to withdraw a complaint from the board. A licensee in violation of these provisions would be subject to disciplinary action by the Board. Since the new statute will take effect on January 1, 2013 and the language initially proposed in subdivision (b) of Section 1399.130 and subdivision (e) of Section 1399.156 was consistent with the new statute, modifying the text of these two sections to reflect a "violation" or act of "unprofessional conduct" to include a violation of Section 143.5 of the Code will avoid redundancy in regulation.
- Amending subdivision (c) of Section 1399.130 and subdivision (f) of Section 1399.156 regarding the requirement for a licensee to produce to the Board, lawfully requested *documents* provided the licensee has access to, and control over, said documents. In the initial proposed language the term "record" and "medical records" was used, however, OAL questioned whether the Board's intent was to limit the requirement to produce information to solely medical records.

The Board discussed the proposed change to broaden the provision to use the term "documents" in the provisions so that it may apply to any requested information, e.g., medical records, time sheets, performance evaluations, etc.

M/SC: Murphy/Danz

The Board adopted the proposed modified language and delegated the authority to Ms. Del Mugnaio to file the final rulemaking file with the Office of Administrative Law if no substantive comments in opposition to the modified text was received during the 15-day public comment period.

IV. Announcement of 2013 Board Meeting Schedule as Revised – January 10-11, 2013 San Francisco; April 4-5, 2013 Sacramento; July 25-26, 2013 Los Angeles; October 10-11, 2013 Location to be Determined.

The Board reviewed and confirmed the 2013 meeting calendar and inquired about the dates for the scheduled sunset hearings. Ms. Del Mugnaio indicated that the dates are not yet confirmed, but that the Business Professions and Economic Development Committee indicated the sunset hearings will likely be held in March 2013

V. Public Comments on Items Not on the Agenda

None.

VI. Adjournment

Meeting was adjourned at 2:58 p.m.