



SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

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**TELEPHONIC BOARD MEETING MINUTES
November 29, 2010**

**Department of Consumer Affairs
Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board
2005 Evergreen Street, Ste. 2100 Sacramento, CA 95815
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Board Members Present

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

Staff Present

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

Board Members Absent

Alison Grimes, Au.D.
Rodney Diaz, M.D.

Guests Present

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

I. Call to Order

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

II. Introductions

Those present introduced themselves.

III. Future Legislation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Board reviewed the document and provided minor grammatical changes.

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

IV. Proposed Regulations

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

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

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

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

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

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

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

the meaning of the term “sex offense.”

M/S.C: Murphy/Martin

Vote: Unanimous

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

V. Public Comments on Items Not on the Agenda

None.

VI. Adjournment

Meeting was adjourned at 1:00 p.m.