

BACKGROUND PAPER FOR THE SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD

Joint Oversight Hearing, March 19, 2013,

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

**Assembly Committee on Business, Professions and Consumer
Protection**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD

BRIEF OVERVIEW OF THE SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY & HEARING AID DISPENSERS BOARD

The Hearing Aid Dispensers Examining Committee (HADEC) was established under the jurisdiction of the Medical Board of California (MBC) in 1970 (AB 532, Zenovich, Chapter 1514, Statutes of 1970). In 1988, legislation (SB 2250, Rosenthal, Chapter 1162, Statutes of 1988) transferred the enforcement program from MBC to HADEC. SB 1592 (Rosenthal, Chapter 441, Statutes of 1996) authorized HADEC to adopt, amend, or repeal regulations related to the practice of fitting or selling hearing aid devices.

The Speech Pathology and Audiology Examining Committee (SPAEC) was established in 1972 under the jurisdiction of the MBC (SB 796, Whetmore, Chapter 1355, Statutes of 1972). SB 1346 (Business and Professions Committee, Chapter 758, Statutes of 1997) renamed SPAEC to Speech-Language Pathology and Audiology Board (SLPAB).

1998, both HADEC and SLPAB were reviewed by the Joint Legislative Sunset Review Committee (Joint Committee). The Joint Committee raised the issue of merging the two programs, but ultimately did not adopt the idea. Two bills were introduced in 1998 which would have extended the regulation of hearing aid dispensers. One proposal (SB 1982, Greene, 1998) would have merged HADEC with the SLPAB, while the other (AB 2658, Wright) would have extended the sunset date of HADEC. Both bills failed passage in the second house. As a result HADEC became a program under DCA. SLPAB, after being inoperative ("sunsetted") for six-months and operated as a program, was ultimately extended by AB 124 (Ackerman, Chapter 436, Statutes of 1999). In 1999, AB 545 (Pacheco, Chapter

440, Statutes of 1999) established a 7-member Hearing Aid Dispensers Advisory Commission under the hearing aid dispenser program, and AB 2697 (Cardoza, Chapter 277, Statutes of 2000) created the Hearing Aid Dispensers Bureau (Bureau) and reconstituted the Advisory Commission as a committee under the Bureau.

Ultimately, the regulatory programs of the Bureau and the Board were merged. AB 1535 (Jones, Chapter 309, Statutes of 2009) created the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (SLPAHADB). The merged board licenses and regulates more than 12,000 speech-language pathologists, 1,500 audiologists (900 are hearing aid dispensing audiologist), and 900 hearing aid dispensers under the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act (Business and Professions Code (BPC) § 2530 ff.). Each profession has its own scope of practice, entry-level requirements, and professional settings, with some overlap in treated pathologies and rehabilitation.

- Speech-language pathologist (SLP) – provides services to individuals with speech, voice or language disorders and swallowing disorders or impairments.
- Audiologist (Au) – provides services to individuals with hearing, balance (vestibular), and related communicative disorders.
- Dispensing audiologist (DAU) – licensed audiologist who has met the qualifications to fit and sell hearing aids, and is certified by the Board.
- Hearing aid dispenser (HAD) – fits or sells hearing aids to an individual with impaired hearing.
- Speech-language pathology assistant (SLPA) – registered paraprofessionals who complete formal education and training and serve under the direction of a licensed speech-language pathologist.
- Speech-Language Pathology/Audiology Aide – registered support personnel who works under the direct supervision of a licensed professional in the same discipline. There is no formal education and training requirement, but on-the-job training must be provided.

The SLPAHADB's mandates include:

- Protect the public through licensing and regulation of speech-language pathologists, audiologists, and hearing aid dispensers who provide speech and hearing services to California consumers.
- Set entry-level licensing standards, including examination requirements that measure the licensees' professional knowledge and clinical abilities.
- Enforce standards of professional conduct by investigating applicant backgrounds, investigating complaints against licensed and unlicensed practitioners, and taking disciplinary action whenever appropriate.

The current SLPAHADB mission statement, as stated in its 2012-2015 Strategic Plan, is as follows:

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board protects the health, safety, and welfare of the people of California by requiring adherence to laws and regulations designed to ensure the qualifications and competency of providers of speech-language pathology, audiology and hearing aid dispensing services.

Board Membership and Committees

The SLPAHADB is comprised of 9 members; 6 professional and 3 public members. The professional members consist of 2 SLP, 2 Au one of which is a dispensing audiologist, and 2 HAD members, each appointed by the Governor. One of the public members is a physician and surgeon board certified in otolaryngology appointed by the Governor. One public member is appointed by the Senate Committee on Rules and one member is appointed by the Speaker of the Assembly. Committee members receive a \$100-a-day per diem. The SLPAHADB meets about five times per year. All Committee meetings are subject to the Bagley-Keene Open Meetings Act. There are currently no vacancies on the SLPAHADB. The following is a listing of the current SLPAHADB members and their background:

Name and Short Bio	Appointmen t Date	Term Expiration Date	Appointin g Authority
Alison Grimes, Chair, Dispensing Audiologist Professional Member Serves as head of the Audiology Clinic at Ronald Reagan-UCLA Medical Center, Director of the UCLA Newborn Hearing Screening Program, and an Assistant Clinical Professor in Head and Neck Surgery at the David Geffen School of Medicine at UCLA. A Past-President of the American Academy of Audiology. As one of the representatives to the Joint Committee on Infant Hearing, participated in the writing of the 2007 Position Statement. Currently chairs the Pediatric Amplification Task Force for the American Academy of Audiology, and is a member of the Pediatric Diagnostic Guidelines Task Force. Previously served on the Executive Board of the American Auditory Society. Elected to the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology in 2009.	12/04/00	01/01/13	Governor
Carol Murphy, Speech-Language Pathologist Professional Member Serves as director/owner of Speech, Learning & Psychology Services, a private consultative practice serving children and adults with communication and learning problems since 1982. Has served on the California Supporting Early Elementary Delivery Systems (SEEDS) project; was a reviewer for the medical panel for the State Department of Rehabilitation, has worked in both the private and public arenas in the area of speech-language pathology and learning disabilities, and has been a graduate supervisor for the collaborative between CA State University Northridge and public schools. Published articles on language-based learning disabilities. Consults with parents and educators in using research-based models for therapeutic interventions, literacy enhancement and	04/29/05	01/01/13	Governor

educational strategies. A member of the California Speech-Language Hearing Association and the American Speech-Language Hearing Association.			
Rodney Diaz, Otolaryngologist Public Member An Assistant Professor of Otolaryngology - Head and Neck Surgery at the University of California at Davis. Holds a baccalaureate in Astrophysics from the University of California at Berkeley and an MD degree from the University of California at Davis. Completed an internship in General Surgery and a residency in Otolaryngology - Head and Neck Surgery at UC Davis Medical Center. Was a fellow in Otology, Neurotology, and Skull Base Surgery at the Michigan Ear Institute. Currently serves as the Otolaryngology Residency Director at UC Davis Medical Center.	04/05/10	01/01/16	Governor
Monty Martin, Public Member Holds a Master of Science and Pupil Personnel Services from California State University- Sacramento CA. Has been employed within the public school system since 1992, and served as a school counselor and psychologist until 2006. Earned an Administrative Services Credential, and currently serves an assistant superintendent for special education services in Nevada County. A member of the Association of California School Administrators.	01/13/10	11/30/13	Senate Rules Committee
Jaime Lee, Public Member Serves as Executive Vice-President at Jamison Services, Inc., and specializes in leasing and asset management in Downtown Los Angeles. President of the California Market Center. Currently serves as Chair of the Los Angeles Fashion District Business Improvement District Board of Directors. Holds a BA and JD from the University of Southern California. Serves on the USC Alumni Association Board of Governors and the USC Asian Pacific Alumni Association Board of Directors. Is active as a board member of the Hollywood-Wilshire YMCA and the Korean American Coalition. Appointed in 2010 to the City of Los Angeles Quality and Productivity Commission.	05/03/11	11/30/13	Assembly Speaker
Deane Manning, Hearing Aid Dispenser Professional Member A hearing aid dispenser in private practice at Superior Hearing Aid Service in Sun City. Currently serves as Chair of the Hearing Aid Dispensing Committee. Previously served on the DCA Hearing Aid Dispensers Advisory Committee from 2006 to 2009. Holds a BA from Colgate University in Mathematics. Serves on the Board of Directors of the Menifee Valley Hospital Foundation.	03/19/10	01/01/15	Governor
Patti Solomon-Rice, Speech-Language Pathologist Professional Member Assistant Professor in the Communicative Disorders Program at San Francisco State University. Received a Doctor of Philosophy degree from the Joint Doctoral Program in Special Education through the University of California at Berkeley and San Francisco State University. Conducts research in the area of augmentative and alternative communication, focusing on language development and early intervention services. Begins four-year term on the national American Speech-Language-Hearing Association's (ASHA) Board of Ethics in 2013. Currently is the Continuing Education Content Manager for ASHA's Special Interest Group 10 Issues in Higher Education and is a peer reviewer for ASHA's Special Interest Group 12 Augmentative and Alternative Communication. Previously, served as chair of ASHA's Continuing Education Board. Served on the California Speech-Language-Hearing Association's (CSHA) Board of Directors as the	09/05/12	01/01/16	Governor

Commissioner on Professional Development and Continuing Education, and as Secretary of the CSHA Board.			
Amnon Shalev, Hearing Aid Dispenser Professional Member A licensed Hearing Aid Dispenser since 1986, is a co-owner of a Hearing Aid Center in Woodland Hills which serves Medi-Cal beneficiaries residing in Skilled Nursing Facilities. Previously served as Director of Managed Care and Medi-Cal Affairs on the Board of Hearing HealthCare Providers of California.	12/15/12	1/1/16	Governor
Marcia Raggio, Audiologist Professional Member A Professor of Audiology at San Francisco State University. Holds BA and MS degrees from the Communicative Disorders Program at San Francisco State University, a doctorate in Auditory Neuroscience from the University of California, San Francisco. Previously served as member of the SLPAB for five years. Has been active in the California and American Academies of Audiology. Collaborated for 18 years with scientists at UCSF on NIH supported cochlear implant studies. Has published numerous research articles, and has given many presentations at state, national and international venues.	12/17/12	1/1/15	Governor

The SLPAHADB has one committee designated by statute, the Hearing Aid Dispensing Committee (BPC § 2531.05) that was created upon the merger of the Board and Bureau. The committee reviews and researches practice trends and public policies regarding the fitting and selling of hearing aids and advise the Board on professional practice issues. All other committees of the Board are formed as needed and its members are appointed by the Board Chair. The Board has not had any meetings that had to be canceled due to a lack of a quorum in the last four years.

Staffing Levels

The SLPAHADB's Executive Officer is appointed by the Board and serves as the executive officer of the SLPAHADB. The current Executive Officer, Annemarie Del Mugnaio, has served as executive officer for over 10 years and previously served as the Board's senior program analyst. For FY 2012/13, the Board has a staff of 9, with 3 staff dedicated to enforcement and 3 to licensing.

Due to state budget cuts, salary reductions, position reductions, and temporary hiring freezes, it has been difficult for the Board to recruit when positions became vacant. The Board has spent a better part of a year trying to recruit for an office technician position and has had to overcome many hurdles to retain mission critical staff. With the recent budget restrictions eliminating the use of all temporary help, including student assistants, the Board's full-time staff is struggling to meet the operational demands. The Board is currently recruiting to fill a position in its enforcement unit which became vacant in January 2013.

Fiscal and Fund Analysis

As a Special Fund agency, the Board receives no General Fund support, relying solely on fees set by statute and collected from licensing and renewal fees.

While most Board revenues and expenditures remained consistent for the last few years, the Hearing Aid Dispenser revenue, dipped considerably primarily due to the loss of revenue to

the Hearing Aid Dispenser fund beginning in FY 2009/2010. This is attributed to the change in licensing authority by AB 1535 which permitted audiologists to dispense hearing aids under the audiology license (provided the licensee passed a required hearing aid dispenser examination). Since the authority to dispense hearing aids may now be authorized under an audiology license, the separate application fee and license renewal fee associated with the hearing aid dispenser license was eliminated for dispensing audiologists.

SLP, SLPA, and non-dispensing Audiologist licenses all renew biennially, expiring on the last day of the licensees' birth month, and Continuing Professional Development Providers expiring biennially from the date of issuance. All Hearing Aid Dispensing and Dispensing Audiologists' licenses renew annually.

Fee Schedule and Revenue: Speech-Language Pathology & Audiology								
Fee	Current Fee	Statutory Limit	B&P Code/CCR	FY 08/09	FY 09/10	FY 10/11	FY 11/12	% of Total Revenue
Licenses & Permits								10%
App & Initial License: SP/AU	\$60	\$60	2534.2(a) 1399.157(a)	\$53	\$54	\$55	\$76	
Aide Registration	\$10	\$30	2534.2(d) 1399.157(e)	\$1	\$1	\$1	\$1	
SLPA App	\$50	\$150	2534.2(f) 1399.170.1 3(b)	\$16	\$16	\$19	\$18	
Renewal								85%
Biennial SP/AU	\$110	\$150	2524.2(a) 1399.157(c)	\$622	\$670	\$617	\$667	
CPD Renewal	\$200	\$200	1399.157	\$12	\$14	\$11	\$14	
Biennial SLPA	\$75	\$150	2534.2(f) 1399.170.1 4	\$25	\$27	\$40	\$40	
Delinquent Fees								2%
SP/AU	\$25	\$25	2534.2(b)	\$16	\$13	\$14	\$15	
SLPA	\$25	\$25	2534.2(b)	\$1	\$1	\$1	\$1	

Fee Schedule and Revenue: Hearing Aid Dispensers								
Fee	Current Fee	Statutory Limit	B&P Code/CCR	FY 08/09	FY 09/10	FY 10/11	FY 11/12	% of Total Revenue
Licenses & Permits								27%
HAD License App	\$75	\$75	2538.57(a)	\$13	\$13	\$9	\$11	
DAU License	\$280	\$280	2534.2(a)(2) 1399.157(b)	N/A	N/A	\$2	\$1	

HAD Initial License	\$280	\$280	2538.57(d)	\$37	\$21	\$14	\$25	
Practical Exam	\$500*	\$500*	2538.57(b)	\$85	\$53	\$54	\$56	
Written Exam	\$225	\$225	2538.57(b)	\$26	\$22	\$29	\$52	
Temp. License	\$100	\$100	2538.57(c)	\$2	\$3	\$2	\$1	
Branch License	\$25	\$25	2538.57(e)	\$6	\$5	\$5	\$5	
Trainee License	\$100	\$100	2538.57(c)	\$12	\$8	\$8	\$11	
CE Provider	\$50	\$50	2538.57(h)	\$14	\$9	\$17	\$30	
Renewal Fees								72%
Temp License	\$100	\$100	2538.57(b)	\$12	\$8	\$7	\$11	
HAD License	\$280	\$280	2538.57(d)	\$468	\$382	\$249	\$252	
DAU License	\$280	\$280	2534.2(a)(2) 1399.157(d)	N/A	\$45	\$119	\$124	
Branch License	\$25	\$25	2538.57(e)	\$10	\$11	\$11	\$12	
Delinquent Fees								-1%
Temp License	\$25	\$25	2538.57(f))	\$0	\$0	\$0	\$1	
HAD License	\$25	\$25	2538.57(f)	\$4	\$4	\$2	\$2	
DAU License	\$25	\$25	2534.2(b)	N/A	\$0	\$0	\$1	
Branch License	\$25	\$25	2538.57(f)	\$1	\$1	\$1	\$1	

*HAD Examination Fees are established by resolution of the Board. Effective Feb. 1, 2011, fees for Practical Exam increased from \$285 to \$500 and Written Exam increased from \$100 to \$225.

There is no mandated reserve level for the Board; however, the DCA Budget Office has historically recommended that smaller programs maintain a contingency fund slightly above the standard three to six months of reserve. Maintaining an adequate reserve of at least six months provides for a reasonable contingency fund so that the Board has the fiscal resources to absorb any unforeseen costs, such as costly enforcement actions or other unexpected client service costs.

The total revenues anticipated by the SLPAHAD for FY 2012/13, is \$1.5 million and for FY 2013/14, \$1.5 million. The total expenditures anticipated for the SLPAHAD for FY 2012/13, is \$1.89 million, and for FY 2013/2014, \$1.89 million. The SLPAHAD anticipates it would have approximately 2.9 months in reserve for FY 2012/13. As indicated in the following table the Board's projected reserve is 0.2 months at the end of FY 2013/14, which would typically prompt initiating a fee increase. However, due to the outstanding loan pending against the Board's fund, the Board is unable to pursue a fee increase until the loan is repaid and those funds are expended. The Board states that the DCA Budget Office is working closely with the Board to monitor the loan repayment plan to avoid fiscal insolvency.

SB 543 and SB 933 (Chapter 2011) merged the Speech-Language Pathology and Audiology Fund and the Hearing Aid Dispenser's Account into one special fund named Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund. The intent of these bills was to "fold in" the Hearing Aid Dispenser budget (spending authority and appropriation) into the Board's existing budget, and to move all funds into the newly renamed fund.

Fund Condition: Speech-Language Pathology and Audiology Fund						
(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance	\$873	\$912	\$1,217	\$1,164	\$857	\$466
Prior Year Adjustment	\$13	\$115	-\$121	-\$4	\$0	\$0
Adjusted Balance	\$886	\$1,027	\$1,096	\$1,160	\$857	\$466
Revenues	\$784	\$844	\$780	\$1,226	\$1,497	\$1,497
Transfers (from Hearing Aid Account)				\$387		
Total Revenue and Transfers	\$784	\$844	\$780	\$1,195	\$1,497	\$1,497
Total Resources	\$1,670	\$ 1,871	\$1,876	\$2,355	\$ 2,354	\$1,963
Budget Authority	\$778	\$696	\$721	\$985	\$1,888	\$1,888
Expenditures	\$758	\$654	\$713	\$765	\$1,888	\$1,888
Loans to General Fund				-\$1,150		
Fund Balance	\$912	\$ 1,217	\$1,164	\$ 857	\$466	\$75
Months in Reserve	16.7	20.5	18.0	11.9	2.9	0.2

Fund Condition: Hearing Aid Dispensers Fund						
(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance	\$1,273	\$1,285	\$1,052	\$736	--	--
Prior Year Adjustment	\$7	\$2	\$6	-\$3		
Adjusted Balance	\$1,280	\$1,287	\$1,058	\$733		
Revenues	\$720	\$555	\$539	\$252		
Transfers (to SLPA Fund)				-\$387		
Total Revenues and Transfers	\$720	\$555	\$539	-\$135	--	--
Total Resources	\$2,000	\$1,842	\$1,597	\$598	--	--
Budget Authority	\$754	\$952	\$1,101	\$598	--	--
Expenditures	\$714	\$789	\$861	\$598	--	--
Fund Balance	\$1,285	\$1,052	\$736	\$--	--	--
Months in Reserve	19.5	14.6	14.9	--	--	--

Expenditures by Program Component – For the last four fiscal years, combining both the HADB and SLPAB expenditures together from the Board's tables on expenditures by program component, the Board has expended approximately 46% on enforcement, 11% on examinations, 17% on licensing, 9% on administration, and 16% on DCA pro rata.

The Board seeks cost recovery under BPC § 125.3. The Board also has authority to seek cost recovery as a term and condition of probation. In revocation cases, where cost recovery is ordered, but not collected, the Board will transmit the case to the Franchise Tax Board (FTB) for collection. However the Board states that it has not transmitted any cases to FTB for collection of costs in the past four fiscal years, but it will utilize the service for outstanding collections in the future. Also, probation monitoring costs may be included in settlement agreements and are based on the actual cost for the Board to monitor the probationer.

In 2010, DCA launched the CPEI to overhaul the enforcement process of healing arts boards. According to the DCA, the CPEI was a systematic approach designed to address three specific areas: Legislative Changes, Staffing and Information Technology Resources, and Administrative Improvements. Once fully implemented, the DCA expects healing arts boards to reduce the average enforcement completion timeline to between 12-18 months. The DCA requested an increase of 106.8 authorized positions and \$12,690,000 (special funds) in FY 2010-11 and 138.5 positions and \$14,103,000 in FY 2011-12 and ongoing to specified healing arts boards for purposes of funding the CPEI.

As part of CPEI, the Board was authorized to hire one non-sworn investigator effective FY 2010/2011. The new investigator position was filled April 2011, to handle the majority of the Board's investigatory and probation monitoring responsibilities. The Board states that employing an in-house investigator who has intimate knowledge of the laws and regulations governing the professions and works side-by-side with other enforcement staff has proven to be tremendously helpful in conducting focused investigations and expediting cases of significant concern.

In order to further implement CPEI, the Board adopted regulations to provide greater tools to thoroughly investigate applicants and complaints in enforcement matters both expeditiously and judiciously, including authorizing the executive officer to adopt default decisions and approve settlement agreements for revocation, surrender or interim suspension of a license. The final rulemaking file was submitted to the Office of Administrative Law (OAL) in September of 2012.

Licensing

The SLPAHADB licenses approximately 600 audiologists, 930 dispensing audiologists, 12,000 speech-language pathologists, 1,500 speech-language pathologist assistants, 200 aides, 940 hearing aid dispensers. The licensing population has changed in recent years due to the creation of the dispensing audiologist license in 2010 by AB 1535 (Jones, Chapter 309, Statutes of 2009). Prior to that time a licensed audiologist wishing to dispense hearing aids must obtain a second license as a hearing aid dispenser. With the change in law, audiologists who pass the hearing aid dispenser examinations may be certified to also fit and sell hearing aids, thus creating the new dispensing audiologist category. The end result there are now 930 dispensing audiologists, which decreases audiologist licenses by 60% (from 1,508 in FY 2008/09 to 595 in FY 2011/12) and decreases hearing aid dispensers' licenses by 47% (from 1,774 in FY 2008/09 to 938 in FY 2011/12).

The Licensing Program of the Board provides public protection by ensuring licenses or registrations are issued only to applicants who meet the minimum requirements of current statutes and regulations and who have not committed acts that would be grounds for denial.

The Board's established internal performance expectations are that all applications are processed within four weeks. Upon approval of the application and supporting documents, a provisional license or permanent license is issued. Steps implemented to reduce licensing process times include:

- Employed an error detection preliminary review of all applications received by the Board. Applicants are notified immediately if forms are incomplete or the applicant has submitted the wrong form.
- Redesigned the application packages that now include an applicant checklist and all required supporting forms for licensure. Updated all forms and redesigned for clarity to ensure accuracy of the requested information.
- Collected email addresses from applicants and began using e-mail to expedite communication with applicants.
- Eliminated manual recording of examination data in applicant files. Data is entered into the Department's Applicant Tracking System.
- Implemented mandatory overtime for licensing staff.
- Recruited to fill an administrative staff vacancy. Because this is a small board, the vacancy required licensing staff to backfill administrative tasks, resulting in less ability to focus on licensing issues.

In the past three years, the Board has experienced a 34% increase in applications received and a 19% increase in the total number of licenses issued. Current application processing and license issuance timelines average about eight weeks; twice the Board's established processing standard. Growth in the licensing population has substantially increased application licensing processing timelines. In addition, when the Bureau and Board merged, only one of the two Bureau licensing staff was retained. The ultimate result was that the merger decreased licensing staff .75 position – a loss equal to one-fourth of the current license program staff. This effectively increased the workload for all licensing staff.

The redirection of licensing staff increases licensing backlogs. Although it is a priority of the Board to meet its internal performance measures and place licensees in the workforce as quickly as possible, a number of process efficiencies have been implemented, it is difficult to see how the Board will be able to reduce its licensing backlogs without more licensing staff.

In 2012, the Board submitted a BCP concept paper requesting additional staff to assist with its licensing program responsibilities. The concept paper was denied. However, the Board plans to revisit the staffing needs next fiscal year.

The Board requires primary source documentation for any educational transcripts, clinical experience records, license verification from other states, and professional certifications. As part of the licensing process, all applicants are required to submit fingerprint images in order to obtain criminal history background checks from the DOJ and Federal Bureau of Investigation (FBI). The Board is not aware of any licensees that have not been fingerprinted.

The Board reports disciplinary actions to the Federal National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB). The Affordable Care Act in 2010 eliminated duplication between the two databanks, and all data has been transferred to the NPDB database. Subsequently, the Board submits a single report to the NPDB. However, the Board does not currently query the NPDB prior to issuing or renewing a license because of the fiscal impact.

Continuing Education

Continuing education (CE) for hearing aid dispensers has been required since the 1980s. Hearing aid dispensers must complete at least nine hours of CE annually. A minimum of six hours must be related to the practice of dispensing and fitting hearing aids, while the remaining three hours may be related to ethics or business practices.

The Board approves CE provider courses. Board staff reviews the content of each course, and the instructor's qualifications, and issues approval, and may consult with an outside expert for course approval issues.

In 2012, the Board approved regulations increasing the CE requirement for hearing aid dispensers to 12 hours annually. Currently, the Board is in the process of noticing the regulatory proposal before the Office of Administrative Law.

AB 205 (Machado, Chapter1058, Statutes of 1998) required all professionals licensed and registered by the Board to engage in continuing professional development (CPD) and learning, related to the professions of SLP and audiology every two years as a condition of license renewal.

Board regulations require SLPs and non-dispensing audiologists are required to complete 24 hours of CPD from a Board-approved provider during their preceding two-year license renewal cycle. SLPAs must complete 12 hours of CPD every two years.

Regulations adopted in 2011 require a dispensing audiologist to obtain 12 hours for each annual renewal with at least 50 percent of the CPD in hearing aid related course work and the other 50 percent in courses directly relevant to the practice of audiology.

Certification of completion of the required CPD is documented on the license renewal form, which includes a statement of compliance that must be signed by the licensee. The Board uses an automated random selection of at least 5 percent of licenses from each licensing category for auditing. Past audit results show an 85% overall compliance the CE requirements. However, the Board has been unable to conduct CE audits in past two years due to staffing reductions and recruitment challenges.

Continuing competency. The Board has participated in a number of discussions with the DCA and other boards and the Citizens Advocacy Center to discuss the feasibility of implementing a continuing competence model; however the Board does not have adequate information and research at this time to implement a continuing competency model.

Enforcement

Under CPEI, in 2010, DCA developed standard performance measures to assess the effectiveness of enforcement programs, and established an overall goal to complete consumer complaints within 12 to 18 months. Each board and bureau is responsible for determining its performance target for each performance measure to achieve the 12-18 month goal. The following table reflects the Board's performance targets and actual performance for FY 2011/12

Performance Measure	Definition	Target	Current 2011/2012
Volume	Number of complaints received	*	196
Intake	Average number of days from complaint receipt, to the date the complaint was assigned to an investigator.	5 days	5
Intake & Investigation	Average number of days from complaint receipt to closure of the investigation process. (Does not include cases sent to the AG or other forms of formal discipline.)	90 days	265
Formal Discipline	Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake, investigation and prosecution by AG.)	540 days	1,075
Customer Satisfaction	Consumer satisfaction with the service received during the enforcement process.	85% Satisfaction	57%

* Complaint volume is counted and is not considered a performance measure.

Clearly, the Board is not meeting its target for completing investigations in 90 days, or for completing the formal disciplinary process in 18 months (540 days). After analyzing the target investigation timelines for other healing-arts boards and examining its own internal investigation procedures, the Board recently made adjustments to its investigation targets, increasing the target from 90 days to 180 days.

Currently, the Board handles many investigations in-house through the use of a non-sworn investigator provided by the CPEI BCP; however, several cases still remain with the Division of Investigation (DOI). The in house non-sworn investigator position is new, and much time was spent on training and development of the new investigator, establishing procedures and protocols for cases. The Board is confident that as the new investigator becomes more seasoned in the position, processing timelines will be reduced. More complex cases are transferred to DOI, and may take six to eight months to complete. The Board has worked with the AG's Office to learn how to best focus investigations so that DOI requests contain specific direction on gathering the most pertinent facts.

The Board states that the AG cases are inherently lengthy. For formal disciplinary cases, delays occur in scheduling hearings, preconference settlements, and obtaining settlement responses from the licensee. Because of backlogs at the Office of Administrative Hearings, hearings are often scheduled six months to a year out, further delaying the timely closure of cases.

Existing timelines for the Board's disciplinary cases are unacceptable, and the Board has begun process improvements in-house. The Board has developed an extensive disciplinary case managing tracking spreadsheet, which is updated weekly, and provides a status update

for all cases pending with the AG's Office. Staff uses the spreadsheet to track timelines and contacts the AG's Office if anticipated pleading documents or the scheduling of hearings are delayed. The Board is also looking forward to the new case management reports developed by the AG to assist clients in tracking case status.

The table below shows the timeframes for the last three years for investigations and formal discipline. Clearly timeframes have significantly increased and far exceed the established performance measures.

Enforcement Timeframes	FY 2009/10	FY 2010/11	FY 2011/12
Investigations: Average days to close	220	255	296
Discipline: Average Days to Complete	865	803	1348

The table below identifies the actual formal disciplinary actions taken by the Board in the past three years.

Formal Disciplinary Actions	FY 2009/10	FY 2010/11	FY 2011/12
Accusations Filed	5	7	11
Revocation	0	0	1
Voluntary Surrender	1	2	2
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	4	1	7
Probationary License Issued	2	2	2
Other	0	1	0

PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The two boards which now make up the SLPAHAD were last reviewed in 1998 by the Joint Legislative Sunset Review Committee (JLSRC). During the previous sunset review of the two boards, JLSRC raised eight issues for the HADEC, and 11 issues for the SLPAB. Below are actions which have been taken over the last 14 years to address a number of these. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under "Current Sunset Review Issues."

In November, 2012, the SLPAHAD submitted its required sunset report to this Committee. In this report, the Board described actions it has taken since its prior review to address the recommendations of JLSRC. According to the Board, the following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made:

Prior issues for Hearing Aid Dispensers

- **Continued licensing of hearing aid dispensers.** Ensuring that hearing aid dispensers have at least a base level of competency, are monitored, and consumers

are provided recourse when appropriate is sound public policy. The Board continues to license and regulate hearing aid dispensers.

- **Strengthen education requirements for hearing aid dispenser licensing.** There are no formal education requirements to obtain a hearing aid dispenser license. One route which individuals seeking licensure often take is to obtain a trainee temporary license, to work under the supervision of a hearing aid dispenser or dispensing audiologist, who has been licensed for at least three years. The trainee temporary license is issued for six months and can be renewed two times. The trainee must also take the written examination within the first 10 months of issuance. The Board has suggested developing a training manual to provide supervisors with a structure and guidance to consistently train for entry into independent practice, and to also establish accountability for the supervisor.
- **Should continuing education functions be transferred to a professional association, which represents hearing aid dispensers.** The JLSRC stated and the Board agrees that abdicating oversight of a licensing requirement to a professional organization is a conflict.
- **Implement an electronic licensing and enforcement tracking system.** At the last review HADEC's processes were largely manual which was fraught with problems. In 2006, the Bureau began using DCA's Applicant Tracking System to track applications throughout the application process. The Board will realize complete automation with the BreEZe system where the majority of the licensing activity will be interactive and Internet-accessible to applicants and licensees.
- **Electronic testing for the written examinations.** In 2000, the Bureau entered into DCA's Master Service Agreement (MSA) for computer based testing (CBT) services, and continues to use CBT.
- **Report on the large number of fraud complaints against hearing aid dispensers.** In 1998, the Bureau submitted an extensive report regarding "fraud" complaints, along with possible solutions. Since the majority of fraud complaints were related to advertising issues, the Bureau developed a fact sheet entitled "Advertising Guidelines for Hearing Aid Dispensers." The Board revised the fact sheet in 2010, and is currently working with legal counsel to revise the current advertising regulations, which the Board viewed as ambiguous, difficult to enforce, and may be overly restrictive. The Board has proposed simplifying the advertising provisions to restrict only that which is inherently false or misleading and remove restrictions on specific hearing aid pricing language. The Board indicates that it appears the current regulations do not add a layer of consumer protection, but rather spur tension between hearing aid competitors.
- **License fee increase.** Since the last sunset review, the former Bureau's enforcement costs appeared to decrease and stabilize to a manageable expenditure level under existing revenue. Under regulation by the merged board, sharing of administrative staff and overhead has provided some overall cost savings. However the most substantial savings for the hearing aid dispenser's program has been the reduction in investigation costs due to securing an in-house investigator. By handling the majority of hearing aid investigations, this move has saved the Board over \$100,000 annually in costs that would typically be paid to the DOI, according to the Board.

Since combining all revenues for both the Bureau and the Board into the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund in 2012 (SB

933, Statutes of 2011), it is unclear whether a fee increase will be necessary, and, if so, which licensing category should be subject to a fee increase. The Board is working closely with the Department's Budget Office to forecast a reasonable fiscal reserve for the merged Board.

- **Should the Bureau (formerly HADEC) be continued as an independent Board.** AB 1535 (Jones, Chapter 309, Stats 2009) merged the Bureau into the Speech-Language Pathology and Audiology Board to form the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The Board believes a combined governance structure has proven to be more cost effective and provides greater collaboration of cross-cutting professional issues impacting both the professions of hearing aid dispensing and audiology.

Prior issues for Speech-Language Pathology and Audiology

- **Continue licensing speech-language pathologists and audiologists.** Recommendation was to continue to license and regulate speech-language pathologists and audiologists by the State of California be continued.
- **Should speech-language pathology assistants (SLPAs) be licensed, as proposed by AB 205?** AB 205 (Machado, Chapter 1058, Statutes of 1998.) created the new paraprofessional registration category, speech-language pathology assistants (SLPAs). As support personnel under the supervision of licensed speech-language pathologists, SLPAs were created to assist in alleviating the severe shortage of speech-language pathology services available to meet the demands of the school settings, medical facilities, rehabilitative and long-term care facilities, and private practice.
- **Should SLP Aides continue to be registered in light of the new SLPA category?** Should the grandfather provisions for aides to register as assistants continue indefinitely, or be extended? Speech aides are generally perceived as administrative aides or helpers under direct supervision. For this category of paraprofessional, the licensing system requires approval on a case-by-case basis and 100 percent onsite supervision.
- **Should the scope of practice for audiologists be expanded to include the practice of dispensing hearing aids?** AB 1535, (Jones, Chapter 309, Statutes of 2009) granted audiologists the authority to dispense hearing aids under the audiology license provided the audiologist passed both the hearing aid dispenser's written and practical examinations. Licensed audiologists, who held valid and clear hearing aid dispensers licenses as of January 1, 2010, were deemed to have satisfied the requirement for dispensing hearing aids and were grandfathered into a dispensing audiology license. Currently, more than 60 percent of licensed audiologists also hold the authorization to dispense hearing aids.
- **Should a doctorate degree in audiology be required for licensure.** SB 821 (BP&ED Committee, Chapter 307, Statutes of 2009) changed the entry-level education and training requirements to be licensed as an audiologist and raised the requirement from a master's degree to a doctorate degree in audiology. The amendment reflects the national training standards for audiology which transitioned from master's level professional training to a doctoral professional model well over a decade ago. There are no longer master's degree training programs in audiology in the country and California conferred its last master's degree in audiology in December 2007.

- **Should SLPs and audiologists be required to complete continuing education as a condition of license renewal.** CE will continue to be critically important in learning new and appropriate strategies for providing services to individuals with speech, language, and hearing disorders. It is the standard of most health care professions to require CE. Although completion of CE does not ensure competency or enhancement of skills, it does guarantee a minimum level of exposure to educational activities relating directly to the profession and an opportunity to advance if the practitioner exercises reasonable motivation and judgment regarding the selection of courses.
- **Should an electronic tracking system be implemented to obtain timely, accurate and complete licensing and enforcement data?** The Board has been notified by DCA that the Department's new BreEze system will be implemented for the Board in its Phase 3 rollout, which is anticipated to take place in early 2014.
- **Should the SLPAB further improve its internal procedures in order to shorten the timeframe for processing licensing applications and issuing licenses?** Staff reductions and an overall 34% increase in the volume of applications received and a 19% increase in licenses issued over the past three years, has made it impossible to meet the performance measure of four weeks to issue a provisional/permanent license. Implementation of BreEze should be substantially reduce processing timelines, since many document receipt and verification procedures will be automated and web-based allowing applicants to upload and update records. In the interim, the Board is streamlining application review processes to reduce processing timelines.
- **Should the law be amended to require the payment of "all accrued and unpaid renewal fees" in order to renew an expired license?** SB 349 (B&P Committee, Chapter 435, Statutes of 2001) required licensees to pay all accrued and unpaid renewal and delinquency fees upon to renew an expired license.
- **Should SLPAB be continued as an independent Board.** AB 1535 (Jones, Chapter 309, Stats 2009) merged the Bureau into the Speech-Language Pathology and Audiology Board to form the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- **Should the combined Board have a public member majority?** With the merger of the SLPAB and the HADB, and the regulation of three distinct professions under one Board, the Board structure has shifted. Each profession is represented by two professional members and there are a total of three public members on the Board. As such, the public member seats represent the majority of the membership. The Board believes that any further reduction in professional members would compromise the technical expertise necessary to adequately regulate each profession.

Major changes:

- Transitioned the former Hearing Aid Dispensers Bureau operations and staff into the Board, relocated staff, transitioned all licensing, enforcement, examination, and administrative processes.
- Complaint handling for hearing aid dispensing transitioned from being processed by a centralized mediation unit in the DCA to the Board staff in order to closely monitor complaint processing timelines and to track the nature and source of complaints.
- Implemented the new dispensing audiologist licensing category.

- Received authority through CPEI to hire one non-sworn investigator. Employing an in-house investigator who has intimate knowledge of the laws and regulations governing the professions and works side-by-side with other enforcement staff has proven to be tremendously helpful in conducting focused investigations and expediting cases of significant concern.
- In January 2011, increased the hearing aid dispenser's written examination fees from \$100 to \$225 and practical examination fees from \$285 to \$500 in order to appropriately fund the examination program of the Board, including a new occupational analysis for the profession of hearing aid dispensing.
- Adopted a 2012-2015 Strategic Plan.

CURRENT SUNSET REVIEW ISSUES FOR THE SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID DISPENSERS BOARD

The following are unresolved issues pertaining to the SLPHADB, or those which were not previously addressed by the Committee, and other areas of concern for this Committee to consider along with background information concerning the particular issue. There are also recommendations the Business, Professions and Economic Development Committee staff have made regarding particular issues or problem areas which need to be addressed. The SLPHADB and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

BUDGET ISSUES

ISSUE #1: Long term fund condition

Background: Since the Bureau and Board were merged in 2010, the long term status of the merged fund appears to be a concern.

As noted above, total revenues anticipated are \$1.5 for FY 2012/13 million, and \$1.5 million for FY 2013/14. The total expenditures anticipated are \$1.89 million in FY 2012/13, and \$1.89 million in FY 2013/2014. The Board anticipates 2.9 months in reserve at the end of FY 2012/13, and 0.2 months at the end of FY 2013/14. Such low levels typically prompt initiating a fee increase. However, due to the outstanding loan of \$ 1.15 million to the General Fund in FY 2011/12, the Board is not considering a fee increase until loan is repaid and those funds are expended.

The Board states that the DCA Budget Office is working closely to help monitor the loan repayment plan to avoid fiscal insolvency for the Board.

With the passage of AB 1535 in 2009, a slight change in revenue was expected; however, since the legislation created a new dispensing audiologist category to replace the necessity

for a licensed audiologists who wishes to sell hearing aids to also obtain a hearing aid dispenser license, the ultimate drop in revenue appears to be more than was anticipated.

It is appropriate for the Board to advise the committee on how it anticipates paying the bills in the long term, as the General Fund loan is repaid and the Board reserves are expended, or if the General Fund loan is NOT repaid.

Staff Recommendation: *The Board should advise the Committee of its long-term expectation for its Fund. Is there a loan payback schedule? When does the Board expect the loan to be repaid? How long does the Board project that it can remain solvent if the loan is paid back? What are the Board's plans to remain solvent when all of those reserves are exhausted?*

LICENSING ISSUES

ISSUE #2: Licensing timeframes – Does the Board need more staff in order to meet its performance goals.

Background: In the past three years, the Board has experienced a 34% increase in applications received and a 19% increase in the total number of licenses issued. Current application processing and license issuance timelines average about eight weeks; double the Board's four-week goal. Growth in the licensing population has substantially increased application licensing processing timelines. In addition, when the Bureau and Board merged, only one of the two Bureau licensing staff was retained. The merger ultimately decreased the licensing staff by .75 of a position. Since the Board has three staff dedicated to licensing functions, this is equal to a loss of one quarter of the current license program's staff.

Obviously the increased applications and decreased staff creates licensing backlogs. Although the Board has established a priority to meet its internal performance measures and place licensees in the workforce as quickly as possible, it simply cannot meet those performance measures. To help address the situation, the Board implemented a number of process efficiencies, as noted above. However, Committee staff is unable to see how the Board will be able to reduce its licensing backlogs without more licensing staff.

In addition, in July 2012, the Board was directed by the Department of Finance to identify any vacant positions that could be eliminated or reduced in order to comply with a mandatory reduction in personnel. As such, the Board was forced to reduce its only vacant position from a full-time PY to a .6 position at 24 hours per week.

In 2012, the Board submitted a BCP concept paper requesting additional staff for the licensing program. The concept paper was denied. However, the Board plans to revisit the staffing needs next fiscal year.

Staff Recommendation: *The Board should advise the Committee the extent of the current licensing backlogs, and tell the Committee of its short-term plans to reduce*

those backlogs. A budget augmentation should be considered in the near future to enable the Board to reduce its licensing backlogs.

ISSUE #3: Should the Board develop a training manual for hearing aid dispenser trainees and supervisors?

Background: In the prior sunset review of HADEC in 1998, the issue was raised of strengthening the education requirements for hearing aid dispenser licensing. While there are no formal education requirements to obtain a hearing aid dispenser license, a common route which individuals seeking licensure often take is to obtain a trainee temporary license which allows them to work under the supervision of a hearing aid dispenser or dispensing audiologist who has been licensed for at least three years. The trainee temporary license is issued for six months and can be renewed two times. The trainee must also take the written examination within the first 10 months of issuance.

The Board has suggested that to improve the training and development of this training process, it might develop a training manual to provide supervisors with a structure and guidance to consistently train for entry into independent practice, and to also establish accountability for the supervisor.

Committee staff agrees with the Board's suggestion and recommends the Board utilize the Hearing Aid Dispensing Committee which was created as an advisory committee under the Board in 2009 to develop such a training manual.

Staff Recommendation: *The Board should develop a training manual to provide hearing aid trainee supervisors with a structure and guidance to consistently train hearing aid dispensers for entry into independent practice. The Board should utilize its advisory Hearing Aid Dispensing Committee to develop the training manual.*

ISSUE #4: Background Information on Applicants/Licensees- NPDB.

Background: The Board has raised the following as a new issue in its Sunset Report. As indicated above, the Board reports disciplinary actions against licensees to the federal National Practitioner Data Bank (NPDB). However, the Board does not currently query the NPDB prior to issuing or renewing a license because of the fiscal impact. The Board states that it does not have the resources to query the NPDB on applicants seeking licensure with the Board. The Board is requesting legislation to require any applicant that holds, or has previously held, a license in another state, to produce a self-query report from the NPDB. Employing this method of query is cost effective for the Board, does not require an increase in licensing fees to offset the Board's cost to query applicants on the NPDB, and places a lesser workload burden on licensing staff to research the database.

The Board recommends the following amendments:

- 2532.1. (a) Each person desiring to obtain a license shall make application to the Board, upon a form as prescribed by the Board.

(b) A separate license shall be granted in both speech-language pathology and audiology. An applicant may be granted both licenses upon successful completion of the requirements for both licenses.

(c) Any applicant who holds, or has previously held a health care license in another state or territory of the United States, shall produce to the Board a disciplinary data bank report.

2538.24. (a) Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the Board. The application shall be made upon a form and shall be made in the manner as is provided the Board and shall be accompanied by the fee provided for in Section 2538.57.

(b) Any applicant who holds, or has previously held a hearing aid dispensers' license or any other health care license in another state or territory of the United States, shall produce to the Board a disciplinary data bank report.

Staff Recommendation: *Recommend legislation should be enacted to amend BPC §§ 2532.1 and 2538.24 to require applicants who hold or has previously held a health care license in another state to produce to the Board a disciplinary data bank report.*

ISSUE #5: Approving individual speech-language and audiology CE courses and providers.

Background: As indicated in the Board's report, in 2004, the SLPAB initiated a statutory change, which amended BPC § 2532.6 to provide the Board with the authority to approve individual speech-language and audiology CE courses as well as providers. At the time, the SLPAB believed that authority for the Board to approve individual courses, if necessary, would alleviate confusion regarding the type of CE that is deemed applicable to license renewal requirements. To date, the Board has not instituted a mandatory course approval process for CE courses for speech-language pathology or for audiology.

The Board should tell the Committee why it has not pursued this authority to approve individual CE courses (*The Board does approve CE providers and has since the inception of 2532.6*) Does the Board intend to pursue this authority? Does the Board still believe that this is an important tool to have? If the Board does not have plans to pursue regulations in this area, should this provision be amended out of the law?

Staff Recommendation: *The Board should tell the Committee why it has not pursued the authority granted in 2004 to approve individual CE courses. Does the Board intend to pursue this authority? If the Board does not have plans to pursue regulations in this area, should this provision be amended out of the law?*

ENFORCEMENT ISSUES

ISSUE #6: Enforcement timeframes. Why are the Board's enforcement timeframes increasing?

Background: As previously noted, the Board's enforcement timeframes have increased over the last three years. The table below shows the timeframes for the last three years for investigations and formal discipline. The Board's performance timeframes far exceed the established performance measures.

Enforcement Timeframes	FY 2009/10	FY 2010/11	FY 2011/12
Investigations: Average days to close	220	255	296
Discipline: Average Days to Complete	865	803	1348

Under CPEI, in 2010, DCA developed standard performance measures to assess the effectiveness of enforcement programs, and established an overall goal to complete consumer complaints within 12 to 18 months. Each board and bureau is responsible for determining its performance target for each performance measure to achieve the 12-18 month goal. The goal set by the Board for Complaint intake and investigation is 90 days, however the Board far exceeds that timeframe. The goal for completed formal discipline is 540 days (18 months); according the table above that timeframe is exceeded by more than two years in FY 2011/12.

Investigations for FY 2011/12 average 296 days to complete – compared to the initial performance measure of 90 days, and the Board's revised internal measure of 180 days.

Even with the additional non-sworn special investigator provided by the CPEI BCP, the cases still take much too long. The Board states that it is confident that as this new investigator becomes more seasoned in the position, processing timelines will be reduced. The more complex enforcement cases are transferred to DOI, and accusations and other formal disciplinary matters are handled through the AG's Office. The Board states that the AG cases are inherently lengthy. For formal disciplinary cases, delays occur in scheduling hearings, preconference settlements, and obtaining settlement responses from the licensee. Because of backlogs at the Office of Administrative Hearings, hearings are often scheduled six months to a year out, further delaying the timely closure of cases.

Existing timelines for the Board's disciplinary cases are unacceptable. The Board has begun process improvements in-house, and has developed an extensive disciplinary case managing tracking spreadsheet, which is updated weekly, and provides a status update for all cases pending with the AG's Office. Staff uses the spreadsheet to track timelines and contacts the AG's Office if anticipated pleading documents or the scheduling of hearings are delayed. The Board is also looking forward to the new case management reports developed by the AG to assist clients in tracking case status.

The Board needs to advise the Committee about where it believes the bottlenecks are in its investigation processes and disciplinary actions. The Board should also tell the Committee what it thinks are the causes of the delays. The Board should also advise the Committee of what it believes are viable solutions to the extensive timeframes in its enforcement processes.

Staff Recommendation: *The Board should advise the Committee about where it believes the bottlenecks are in its investigation processes and disciplinary actions.*

What does the Board think are the causes of the delays? In the Board's opinion, what are viable solutions to the extensive timeframes in its enforcement processes?

ISSUE #7: (ADOPTION OF UNIFORM SUBSTANCE ABUSE STANDARDS.) What is the status of the regulations adopting the Uniform Standards developed by the Department of Consumer Affairs Substance Abuse Coordination Committee?

Background: The Legislature enacted SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) to establish within the DCA a Substance Abuse Coordination Committee (SACC) to develop uniform standards and controls for healing arts programs dealing with licensees with substance abuse problems by January 1, 2010. SB 1441 requires each healing arts board within the Department to use the uniform standards developed by SACC regardless of whether the board has a formal diversion program.

The SACC completed its work and developed uniform standards in 16 specific areas identified by SB 1441. The uniform standards were published in April 2011. Since that time various boards within DCA have struggled with the uniform standards. Some boards have been reluctant to adopt the standards, contending that the standards are optional, or that certain standards are not applicable.

However, the Legislative Counsel, in a written opinion titled Healing Arts Boards: Adoption of Uniform Standards (# 1124437) dated October 27, 2011, states: “[W]e think that the intent of the Legislature in enacting Section 315.4 was not to make the uniform standards discretionary but to ‘provide for the full implementation of the Uniform Standards’ Accordingly, we think the implementation by the various healing arts boards of the uniform standards adopted under Section 315 is mandatory.”

An Attorney General Informal Legal Opinion, February 29, 2012, and a DCA Legal Counsel Opinion, dated April 5, 2012 both agree with this opinion.

In its Report, the Board indicates that it adopted proposed language incorporating the Uniform Standards for Substance Abusing licenses into its Disciplinary Guidelines at its July 2012 Board meeting. The Report states that staff is working with legal counsel to finalize the necessary regulatory documents to file the proposed standards and guidelines with the Office of Administrative Law.

Staff Recommendation: *The Board should update the Committee on the status of the regulations to implement the Uniform Standards.*

ISSUE #8: (CPEI IMPLEMENTATION.) What is the status of the Board's CPEI regulations?

Background: In response to a number of negative articles about the length of time licensing boards take to discipline licensees who are in violation of the law, in 2010, the DCA launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement process of healing arts boards. According to the DCA, the CPEI is a systematic approach designed to address three specific areas: Legislative Changes, Staffing and Information Technology

Resources, and Administrative Improvements. Once fully implemented, the DCA expects the healing arts boards to reduce the average enforcement completion timeline to between 12 - 18 months. The DCA requested an increase of 106.8 authorized positions and \$12,690,000 (special funds) in FY 2010-11 and 138.5 positions and \$14,103,000 in FY 2011-12 and ongoing to specified healing arts boards for purposes of funding the CPEI. As part of CPEI, the Board was authorized to hire one (non-sworn) special investigator.

The Board indicates that it filled the special investigator position in 2011, and uses that position to handle the majority of the Board's investigatory and probation monitoring responsibilities. The Board states that employing an in-house investigator who has intimate knowledge of the laws and regulations governing the professions and works side-by-side with other enforcement staff has proven to be tremendously helpful in conducting focused investigations and expediting cases of significant concern.

Regarding regulations to implement CPEI the Board states that it filed the final rulemaking file with the OAL in September 2012. The proposed regulations serve to implement the provisions of the consumer protection enforcement initiative and provide the Board with greater tools to thoroughly investigate applicants and complaints in enforcement matters both expeditiously and judiciously.

Staff Recommendation: *The Board should update the Committee on the current status of the regulations to implement CPEI.*

ISSUE #9: Advertising Requirements and “Fraud” Complaints.

Background: In the prior sunset review of HADEC in 1998, the recommendation was made that HADEC should issue a report on the large number of fraud complaints against hearing aid dispensers. In 1998, the Bureau submitted an extensive report regarding “fraud” complaints, along with possible solutions. Since the majority of fraud complaints were related to advertising issues, the Bureau developed a fact sheet entitled “Advertising Guidelines for Hearing Aid Dispensers.”

The Board further revised the fact sheet in 2010, and is currently working with legal counsel to revise the current advertising regulations, which the Board believes are ambiguous, difficult to enforce, and may be overly restrictive. The Board has proposed simplifying the advertising provisions to restrict only that which is inherently false or misleading and remove restrictions on specific hearing aid pricing language. The Board indicates that it appears the current regulations do not add a layer of consumer protection, but rather spur tension between hearing aid competitors.

The Board should advise the Committee on the status of revising its advertising regulations.

Staff Recommendation: *The Board should advise the Committee on the status of revising its advertising regulations to provide greater clarity and enforceability.*

ISSUE #10: Clarifying the provisions of the Song Beverly Consumer Warranty Act (Song Beverly)

Background: In its recent report to the Committee, the Board identified ongoing issues with the warranty provisions for consumers of assistive devices outlined in the Song Beverly Consumer Warranty Act (Song Beverly) (Civil Code § 1793.02). Hearing aids are an assistive device and as such, the product warranty or “right of return” provisions of Song Beverly apply to the sale and refund of hearing aids. Historically, Song Beverly has been difficult to enforce as, according to the Board, the warranty language is vague and may be interpreted in several different ways.

The Board believes that the lack of clarity of Song Beverly as applied to warranty provisions for hearing aids is a detriment to both the consumer and the hearing aid dispenser selling the device. In its recent report to the Committee the Board states:

“The lack of clarity and specificity in [Song Beverly] results in disputes between consumers and hearing aid dispensers, and ultimately some form of legal recourse, or mediation, is initiated. It is difficult for the Board to mediate such complaints when the parties involved have different interpretations of their rights and responsibilities and the underlying facts are difficult to substantiate.”

The Board has attempted to resolve this issue by pursuing legislation. Last year, the Hearing Healthcare Providers of California, with the support of the Board, sponsored SB 1444 (Anderson). This bill would have amended Song Beverly to include an authorization for the Board to adopt implementing regulations to carry out the purposes and objectives of the warranty provisions, thereby, creating further clarity to the consumer’s right of return for hearing aid devices. The bill was double referred to the Senate Business, Professions and Economic Development Committee (BPED) and the Senate Judiciary Committee. The bill passed out of the BPED Committee 9–0. However, several additional amendments were proposed by the Senate Judiciary Committee and the Author cancelled presentation before the Senate Judiciary Committee. As a result, the bill died in the Senate Judiciary Committee.

The issues raised and amendments proposed by Senate Judiciary Committee included:

Issues

1. The \$200 non-refundable deposit would be contrary to Song-Beverly’s consumer protections (Civ. Code Sec. 1793.02(c)).
2. One provision of the bill would allow a hearing aid seller 30 days from the return of the hearing aid to refund the buyer’s money. Existing law provides that the seller shall promptly refund the total amount paid (Civ. Code Sec. 1793.02(c)). Accordingly, this provision would make it more difficult for consumers to “promptly” receive their money back and would tie up money owed to them for 30 days.

Recommended Amendments

1. The term “completion of fitting” is vague and ambiguous. It is predicated on the buyer’s particular belief as to whether the hearing aid is properly fitted. As such, hearing aid sellers do not have clear guidance as to when the warranty would begin.

To effectively address the issue at hand that the warranty start date should be better clarified, the bill should be amended to provide that the warranty start period begin on the date of delivery to the buyer.

2. In order to provide the buyer with clear notice of the warranty provisions and more time to discover potential faults with the hearing aids, the bill should be amended to increase the warranty period from 30 days to 45 days and require the hearing aid seller to provide in the written warranty the dates of delivery of the hearing aid to the buyer and the warranty expiration date.

The Board has indicated interest in pursuing the amendments proposed by the Senate Judiciary Committee. The Board has also proposed an alternative to amending the Civil Code. The Board proposes that hearing aids be exempted from Song Beverly entirely and language should be added to the Business and Professions Code outlining the right of return for hearing aid devices.

Staff Recommendation: *The Committee is supportive of the Board's willingness to pursue the amendments suggested by the Senate Judiciary Committee. As such, the Committee recommends that the Board work with the Senate Judiciary Committee and any other appropriate policy committee within the Legislature to craft language that will provide clarity regarding the consumer's right of return for hearing aid devices.*

ISSUE #11: Unprofessional Conduct

Background: The Board has raised the following as a new issue in its Sunset Report. BPC § 2533 provides grounds upon which the Board may take disciplinary action against a license; however the provisions do not include violation of a term or condition of a probationary order, or of a license issued by the Board.

At the recommendation of Board legal counsel, the Board is proposing the following amendment in order to strengthen the Board's disciplinary authority to either revoke or impose further restrictions on a licensee, who either violates probationary terms, or is not in compliance with the conditions of a license issued by the Board. Without this change, the Board must rely upon Section 2533 (g), and plead that the acts of noncompliance with probation or with the terms of license, have endangered the health and safety of the public.

The Board recommends the following amendment to add paragraph (l) to BPC § 2533:

2533. The Board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

(l) Violation of a term or condition of a probationary order or of a license issued by the Board.

Staff Recommendation: *Recommend legislation should be enacted to paragraph (l) to BPC § 2533 to authorize the Board to take disciplinary action for violation of a term or condition of a probationary order or of a license issued by the Board.*

TECHNOLOGY ISSUES

ISSUE #12: What is the status of BReEZe implementation by the Board?

Background: The BreEZe Project will provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. BreEZe will replace the existing outdated legacy systems and multiple “work around” systems with an integrated solution based on updated technology.

BreEZe will provide all DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreEZe will improve DCA’s service to the public and connect all license types for an individual licensee. BreEZe will be web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information. The BreEZe solution will be maintained at a three-tier State Data Center in alignment with current State IT policy.

BreEZe is an important opportunity to improve the Board’s operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have actively participated with the BreEZe Project. Due to increased costs in the BreEZe Project, SB 543 (Steinberg, Chapter 448, Statutes of 2011) was amended to authorize the Department of Finance (DOF) to augment the budgets of boards, bureaus and other entities that comprise DCA for expenditure of non-General Fund moneys to pay BreEZe project costs.

The Board is scheduled to begin using BreEZe in 2013. It would be helpful to update the Committee about SLPHADB’s current work to implement the BreEZe project.

Staff Recommendation: *The Board should update the Committee about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs of implementing this system? Is the cost of BreEZe consistent with what the Board was told the project would cost?*

ADMINISTRATIVE ISSUES

ISSUE #13: Should the name of the Board be changed?

Background: When AB 1535 (Jones, Chapter 309, Statutes of 2009) created the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board by merging the Bureau into the Board, the resulting name was made simply combining the names of both

entities. Although it reflects the licenses the Board regulates, Committee staff notes the clear irony of such a complex name for a speech and hearing regulatory Board.

It is noteworthy that SB 1982 (Greene) the 1998 bill which would have merged the two programs into a single bill would have named the new Board the Speech and Hearing Sciences Board of California. That bill failed passage in the Assembly.

Committee staff suggests that the Board should consider recommending a name for the Board that is more user-friendly but that still adequately describes the Board's area of jurisdiction.

Staff Recommendation: *The Board should advise the Committee whether it thinks that it would be appropriate to rename the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board to a more user-friendly name that describes the Board's regulatory jurisdiction. If the Board agrees, it should recommend a revised Board name to be changed through legislation.*

ISSUE #14: Services provided by Regional Centers for Deaf/Hard of Hearing Impaired Children.

Background: In its recent report to the Committee, the Board raised an issue regarding the Department of Developmental Services (DDS) and its service provision to children who have a co-occurring developmental disability and hearing impairment. The DDS contracts with 21 Regional Centers in California to provide services for infants and children who have both a hearing impairment and an additional disability (e.g., intellectual disability, autism). Such services are provided in accordance with the Individuals with Disabilities Education Act (IDEA). These children require specialized services performed by individuals who have expertise in language and speech development. Best practices, as outlined by the National Joint Committee on Infant Hearing (2012), stipulate that states/territories need to ensure that Early Intervention (EI) providers meet at least minimum criteria for experience and skills necessary to serve infants who have a hearing impairment as well as their families.

However, the Board reports that there are "...abundant reports from all over the state of [hearing impaired] children who receive Regional Center services that do NOT include specialized language and speech therapies." Further, many parents whose children are served in the Regional Center system do not know the qualifications and competencies of the service providers.

The Board indicates that it is urgent that the state Regional Center system be required to identify and contract with EI personnel with knowledge and skills in the development of language and speech and/or American Sign Language. The Board has communicated with the DDS on several occasions regarding its concerns with the services provided to children with hearing impairments within the Regional Centers. While DDS has responded to the Board and has made attempts to communicate the Board's concerns to the California Department of Education, issues regarding the lack of appropriate services within Regional Centers remain.

The Board stated their interest in the Legislature convening a task force to investigate and address such issues. The Board stands ready to assist and participate in finding solutions to an ongoing and pervasive problem.

Staff Recommendation: *The Committee recognizes the importance of addressing the issues the Board has raised regarding EI personnel. However, solutions to address these issues are outside of the Committee's jurisdiction. As such, it is recommended that the Board contact the appropriate policy committee within the Legislature, e.g. the Health and Human Services Committee(s) and/or the Education Committee(s), that may be able to assist the Board in addressing these issues via convening a task force and/or drafting legislation.*

TECHNICAL CLEANUP

ISSUE #15: Technical Cleanup.

Background: Committee staff notes a cleanup provision that could be made in BPC § 2532.6(b). This section requires continuing education for licensees relating to speech-language pathology and audiology and establishes a phase in period beginning in 2001 and which was fully implemented by 2002. This section provides:

2532.6 (b) (b) On and after January 1, 2001, and until January 1, 2002, the Board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the Board that he or she has completed, after April 12, 1999, and prior to his or her renewal date in 2001, not less than the minimum number of continuing professional development hours established by the Board pursuant to subdivision (c) for the professional practice authorized by his or her license. On and after January 1, 2002, the Board shall not renew any license or registration pursuant to this chapter unless the applicant certifies to the Board that he or she has completed in the preceding two years not less than the minimum number of continuing professional development hours established by the Board pursuant to subdivision (c) for the professional practice authorized by his or her license or registration.

The Board should recommend cleanup amendments for this section.

Staff Recommendation: *The Board should recommend cleanup amendments for BPC § 2532.6 to the Committee.*

CONTINUED REGULATION OF THE PROFESSION BY THE
CURRENT SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND
HEARING AID DISPENSERS BOARD

ISSUE #16: (CONTINUED REGULATION BY THE BOARD.) Should the licensing and regulation of speech-language pathologists, audiologists, and hearing aid dispensers be continued and be regulated by the current Board membership?

Background: The health, safety and welfare of consumers are protected by the presence of a strong licensing and regulatory Board with oversight over speech-language pathologists, audiologists, and hearing aid dispensers.

The Board faces considerable challenges to being the consumer protection agency that is needed in the coming years. The growing needs of an aging population for speech and hearing services, along with the expanded health care mandates will test the resolve and ability of the Board to be the consumer protection agency that California deserves. Budget crises, budget restrictions, hiring freezes, vacancies, and staff furloughs have all contributed to limit the Board's operations and abilities to reign in the timeframes for its critical licensing and enforcement processes into control. However the Board needs be proactive in its approach; finding new ways to accomplish its consumer protection purposes.

The SLPHADB should be continued with a 4-year extension of its sunset date so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: *Recommend that the licensing and regulation of speech-language pathologists, audiologists, and hearing aid dispensers continue to be regulated by the current Board members of the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in order to protect the interests of the public and be reviewed once again in four years.*