

# Preliminary Evaluation of the State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists

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<b>Recommendations:</b>	<b>Waive from full evaluation</b> <b>Extend termination date by 10 years to July 1, 2026</b> <b>Require follow-up report by October 1, 2015</b>
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<b>Date Established:</b>	1992
<b>Most Recent Prior Evaluation:</b>	Preliminary evaluation, 2001  Waive from full evaluation and extend termination date by 12 years to July 1, 2016 (enacted by Chapter 209 of 2002); follow-up report on implementation of recommendations (submitted)
<b>Composition:</b>	Thirteen members (three audiologists, three speech-language pathologists, two physicians, three hearing aid dispensers, and two consumers)  Two vacancies (one consumer and one physician)
<b>Staff:</b>	Three full-time (executive director, administrative specialist, and office secretary)  Other shared personnel support the board (assistant Attorney General, investigator, regulations coordinator, fiscal and information technology personnel)
<b>Regulated Professions:</b>	Audiologists (441 active full licenses and 1 active limited license* as of June 30, 2013)  Hearing Aid Dispensers (118 active full licenses and 16 active limited licenses* as of June 30, 2013)  Speech-language Pathologists (3,511 active full licenses and 132 active limited licenses* as of June 30, 2013)  Speech-language Pathology Assistants (52 active full licenses and 6 active limited licenses* as of June 30, 2013)
<b>Authorizing Statute:</b>	Title 2, Health Occupations Article
<b>Evaluation Completed by:</b>	Lynne Blume Rosen, Department of Legislative Services, 2013

\* A limited license permits an individual to practice under supervision while completing the licensing requirements.

## Overview of Regulatory Activity

Maryland began regulating hearing aid dealers in 1969, followed by audiologists and speech pathologists in 1972. Initially governed by three separate boards, the boards merged in 1992, and the resulting board was named the State Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists in 1993. The board protects the public by licensing and disciplining audiologists, hearing aid dispensers, speech-language pathologists, and speech-language pathology assistants.

While only three laws have impacted the board since the last sunset review in 2001 (see **Appendix 1**), one such act, Chapter 391 of 2007, made significant revisions to the board's governing statute (the Maryland Audiology, Hearing Aid Dispensing, and Speech-Language Pathology Act). Chapter 391 required an individual hired to practice speech-language pathology or assist in the practice of speech-language pathology in an educational setting (*i.e.*, a Maryland local public school system, State-approved nonpublic school for handicapped children, or chartered educational institution of the State) to be licensed by the board. Chapter 391 also altered licensure requirements, modified renewal and reinstatement provisions, increased the maximum fine the board may impose, and increased misdemeanor penalties. Generally, the board has successfully implemented these changes.

The board has fulfilled its licensing and disciplinary responsibilities through efficient and timely licensing and complaint resolution processes (see **Appendix 2** and **Appendix 3**). Following enactment of Chapter 391, the number of applications for speech-language pathology licenses grew significantly, peaking with 376 applications in fiscal 2011. Despite the increased workload of the board, the board has been able to issue licenses in a timely manner. On average, the board issues a license within three business days of receipt of a complete application. The number of complaints received by the board annually has doubled since fiscal 2008 but remains low relative to the total number of individuals regulated by the board. Despite the growing number of complaints, the board has recently reduced the amount of time it takes to resolve complaints from an average of 131 calendar days in fiscal 2012, down to 63 days in fiscal 2013.

The board is entirely special funded by fees collected for licensing and other board services (see **Appendix 4**). Board revenues have grown significantly since fiscal 2008, due to a higher-than-expected number of speech-language pathology applications. Board expenditures have been relatively flat due to budget restrictions and no new hires, cost-of-living adjustments (COLAs), or merit increases for board employees. Expenditures are anticipated to begin to grow again beginning in fiscal 2014, as COLAs and merit increases become available. Due to higher-than-anticipated revenues and flat expenditures, the board's fund balance grew to a high of \$580,333 by the beginning of fiscal 2009 and consistently exceeded the target of 30% of expenditures through fiscal 2012. In response, budget reconciliation and financing legislation transferred \$96,350 from the board to balance the general fund in fiscal 2013, helping to draw the board's balance down to \$86,338 (26% of expenditures). Currently, all board licensees except hearing aid dispensers renew in even-numbered fiscal years. The board is proposing regulations to require that licenses instead be renewed in the year in which they expire (two years from issuance) in order to provide a more consistent annual workload and revenues for the board.

## Conclusion and Recommendations

For the continued benefit of the public health, Maryland should maintain its regulation of audiologists, speech-language pathologists, speech-language pathology assistants, and hearing aid dispensers. The Department of Legislative Services (DLS) recommends that the Legislative Policy Committee waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2026. DLS further recommends that the board submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee; the House Health and Government Operations Committee; and DLS by October 1, 2015, on the impact of (1) regulations that would establish a certificate of eligibility for a license to assist in the practice of speech-language pathology on the availability of supervised opportunities for speech-language pathology assistants and (2) shifting the renewal cycle of licenses on the finances and workload of the board.

## Policy Issue for Consideration

Chapter 391 of 2007 established a license to assist in the practice of speech-language pathology that authorized an individual who meets specified qualifications to work under the direct supervision of a licensed speech-language pathologist. Chapter 391 defined "direct supervision" to mean on-site and personal oversight by a licensed speech-language pathologist who assumes responsibility for another individual's conduct. Regulations require an applicant for a license to assist in the practice of speech-language pathology to complete a delegation agreement for each supervising speech-language pathologist. In addition, regulations require an applicant to have completed a period of at least nine months of supervised practice. There are currently only 52 active, full licensees and 6 active, limited licensees. The board indicates this number is low because potential candidates for a license cannot find employers who are willing to perform the supervisory role. Employers have expressed to the board their reluctance to employ an individual who is not yet licensed by the board. The board is reviewing a proposal that would authorize issuance of a certificate of eligibility for a license to assist in the practice of speech-language pathology to an individual who has met all the qualifications for licensure, except for the completion of nine months of supervised practice. The certificate of eligibility would serve as proof of the qualifications of an individual to work under the supervision of a licensed speech-language pathologist and allow an applicant to demonstrate to potential employers and supervisors that he or she meets the licensure requirements other than supervised experience. **The board should continue to work with relevant stakeholders on how to amend current regulations (and statute, if necessary) to address the need for more supervised opportunities for applicants for a license to assist in the practice of speech-language pathology.**

## Appendix 1.

### Major Legislative Changes Since the 2001 Sunset Evaluation

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<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2002	209	<p>Extends the board's termination date by 12 years to July 1, 2016.</p> <p>Requires DLS to conduct a sunset review of the board by July 1, 2015.</p>
2004	344	<p>Prohibits the two physician members of the board from voting on proposals that expand or restrict the practice of audiology or speech-language pathology.</p>
2007	391	<p>Establishes a speech-language pathology assistant license.</p> <p>Alters requirements for board membership.</p> <p>Requires the board to adopt regulations governing the use of telehealth communications by audiologists, hearing aid dispensers, and speech-language pathologists.</p> <p>Repeals the board's authority to inspect the facilities used by licensed hearing aid dispensers.</p> <p>Requires certain individuals in specified educational settings to be licensed by the board, on or after October 1, 2007, in order to practice or assist in the practice of speech-language pathology or assist in the practice of speech-language pathology.</p> <p>Alters licensure requirements for audiology and hearing aid dispensing licenses.</p> <p>Authorizes the board to waive qualifications for licensure under specified circumstances.</p> <p>Prohibits a limited licensee who fails to receive a full license within two years after the initial limited license was issued from applying for another limited license.</p> <p>Establishes a limited license to assist in the practice of speech-language pathology.</p> <p>Increases to \$5,000 the amount of a penalty the board may impose.</p> <p>Authorizes the board to issue a subpoena or administer an oath in connection with a board investigation, hearing, or proceeding.</p> <p>Requires a licensee found in violation of a law relating to the professional practice of the licensee, to pay the costs of the hearing.</p> <p>Prohibits an order of the board from being stayed pending review.</p> <p>Prohibits unlicensed individuals from representing to the public that they are authorized to practice audiology or speech-language pathology, or assist in the practice of speech-language pathology.</p>

Source: Laws of Maryland

**Appendix 2.  
Licensing Activity  
Fiscal 2009-2013**

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
<b><u>Initial Full Licenses</u></b>					
SLP	275	236	376	311	310
SLP-A	20	13	5	16	11
AUD	25	21	34	27	38
HAD	6	3	3	8	8
<i>Subtotal</i>	326	273	418	362	367
<b><u>Initial Limited Licenses</u></b>					
SLP	65	150	168	179	170
SLP-A	14	11	13	12	10
AUD	0	0	0	0	1
HAD	6	11	11	8	16
<i>Subtotal</i>	85	172	192	199	197
<b><u>Renewal Licenses</u></b>					
SLP		2,446		2,872	
SLP-A		20		27	
AUD		341		375	
HAD	111		106		110
<i>Subtotal</i>	111	2,807	106	3,274	110
<b>Total New and Renewal Licenses Issued</b>	<b>522</b>	<b>3,252</b>	<b>716</b>	<b>3,835</b>	<b>674</b>

Key: SLP = Speech-Language Pathologists, SLP-A = Speech-Language Pathology Assistant, AUD = Audiologist, HAD = Hearing Aid Dispenser

Source: State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists

**Appendix 3.**  
**Resolution of Complaints Received**  
**Fiscal 2009-2013**

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	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
New Complaints Received	17	18	32	39	41
<i>Disposition of Resolved Complaints</i>					
No Violation	8	7	7	10	7
No Jurisdiction	1	1	0	5	4
Letter of Education	4	4	13	14	10
Letter of Admonishment	3	5	8	6	9
Revoke	0	0	0	0	0
Surrender	1	0	1	0	0
Pre-charge Consent Order	0	1	0	0	0
Consent Order	0	0	0	0	0
Cease and Desist	0	0	2	2	1
Intent to Deny	0	0	1	0	1
Probation	0	0	0	0	0
Fine	0	0	0	0	0
Pending Complaints	0	0	0	2 <sup>1</sup>	9
<b>Total</b>	<b>17</b>	<b>18</b>	<b>32</b>	<b>39</b>	<b>41</b>

<sup>1</sup> Two complaints from fiscal 2012, relating to the same set of circumstances, remain open. According to the board, they are complex complaints but should be resolved by November 2013.

Source: State Board of Examiners for Audiologists, Hearing Aid Dealers, and Speech-Language Pathologists

**Appendix 4.**  
**Financial History of the State Board of Examiners for Audiologists, Hearing Aid Dispensers,**  
**and Speech-Language Pathologists**  
**Fiscal 2009-2013**

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>Est.</u> <u>FY 2014</u>
Beginning Balance	\$580,333	\$357,769	\$409,226	\$264,611	\$420,269	\$86,338
Revenue Collected	116,317	399,149	181,725	492,750	93,117	398,250
<b>Total Available Funds</b>	<b>\$696,650</b>	<b>\$756,918</b>	<b>\$590,951</b>	<b>\$757,361</b>	<b>\$513,386</b>	<b>\$484,588</b>
Direct Costs	\$285,918	\$294,578	\$268,886	\$285,964	\$270,033	\$308,837
Indirect Costs	52,963	53,114	57,454	51,128	60,665	50,214
<b>Total Expenditures</b>	<b>\$338,881</b>	<b>\$347,692</b>	<b>\$326,340</b>	<b>\$337,092</b>	<b>\$330,698</b>	<b>\$359,051</b>
Transfer to Balance the General Fund					\$96,350	
<b>Ending Fund Balance</b>	<b>\$357,769</b>	<b>\$409,226</b>	<b>\$264,611</b>	<b>\$420,269</b>	<b>\$86,338</b>	<b>\$125,537</b>
Balance as % of Expenditures	106%	118%	81%	125%	26%	35%
Target Fund Balance (30%)	\$101,664	\$104,307	\$97,902	\$101,127	\$99,209	\$107,715

Note: Revenues are higher in even-numbered fiscal years because all licensees (except hearing aid dispensers) renew in even-numbered years. The board has proposed regulations to require that audiologist and speech-language pathology licenses be renewed in the year they expire instead of in even-numbered years.

Source: State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists





**Appendix 5.**  
**Written Comments of the State Board of Audiologists,  
Hearing Aid Dispensers, and Speech-Language Pathologists**

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The board reviewed a draft of this preliminary evaluation and provided these written comments.





STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene  
4201 Patterson Avenue • Baltimore, Maryland 21215

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

**Board of Examiners for Audiologists, Hearing Aid Dispensers and  
Speech-Language Pathologists**

November 18, 2013

Jennifer B. Chasse, Principal Policy Analyst  
Department of Legislative Services  
90 State Circle  
Annapolis, Maryland 21401

Dear Ms. Chasse:

Thank you for providing the Maryland Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists (the Board) with an exposure draft copy of the *Preliminary Evaluation* report. Mr. Christopher Kelter, the Board's Executive Director, appreciates the brief extension for this response so that he could assist another board in an important matter. Mr. Kelter and I have reviewed the report. The report was thorough and no errors or discrepancies were found.

Accordingly, the Board submits that the report accurately reflects the status and operations of this Board and unanimously concurs with the recommendation of Waiver from Full Evaluation and extending the termination date to July 1, 2026.

On behalf of the Board I appreciate Ms. Rosen's professionalism, courtesy and openness while performing the evaluation. Ms. Rosen was consistently professional and cordial throughout the process in working with Board staff, Board members and the professional associations representing this Board's licensees.

The Board acknowledges the policy consideration in the *Preliminary Evaluation* and the required follow-up report due by this Board to the General Assembly in October 2015. If the Legislative Policy Committee requires additional information please do not hesitate to contact Mr. Kelter at 410-764-4725.

Sincerely,

Ronald M. Kaplan, Au.D.  
Board Chair

cc: Secretary Joshua Sharfstein, M.D.  
Mr. Patrick D. Dooley  
Mr. Karl S. Aro  
Senator Paula Hollinger, Associate Director, Boards & Commission  
Kristen Neville, Legislative Coordinator, Boards & Commission  
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