



March 20, 2026

Honorable Aisha Wahab, Chair and Members,
Senate Business, Professions, and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

Honorable Marc Berman, Chair, and Members
Assembly Business and Professions Committee
Legislative Office Building, Room 379
Sacramento, CA 95814

Re: Joint Sunset Oversight Hearing, Speech–Language Pathology and Audiology and
Hearing Aid Dispensers Board

Dear Senator Wahab, Assemblymember Berman, and Members of the Committees:

The Consumer Protection Policy Center (CPPC) respectfully submits the following testimony relevant to the Committees’ sunset review of the Speech–Language Pathology and Audiology and Hearing Aid Dispensers Board (SLPAHADB). As set forth in detail below, we are concerned that **SLPAHADB’s majority-licensee composition risks creating the impression that its regulated professions wield significant control over the Board and its decision making.** SLPAHADB’s composition not only presents antitrust issues, but also suggests that the public lacks adequate oversight over the Board’s regulatory actions to the detriment of public protection, its paramount priority.

Accordingly, CPPC proposes retention of the Board but makes the following major recommendations (which are explained more fully below):

- 1) **Establish a Public Member Majority on the Board:** Add four public members to the composition of the Board—bringing the total number of board members to thirteen—to ensure public protection remains its highest priority.
- 2) **Grant Statutory Authority to Establish an Inspection Program:** Current law prevents SLPAHADB from establishing a proactive and routine inspection program. Granting this authority would strengthen public protection and improve deterrence.
- 3) **Scrutinize SLPAHADB’s inability to meet performance targets for its Enforcement Program:** Over the previous sunset cycle, SLPAHADB’s Enforcement Program has been unable to meet its performance targets,

consistently more than doubling its target timeframes. Scrutinizing whether the Board conducts investigations and disciplinary actions in a timely manner is critical to protect the public and maintain public faith in the Board.

About the Consumer Protection Policy Center

CPPC is a nonprofit, nonpartisan academic and advocacy center based at the University of San Diego School of Law. Since 1980, CPPC has studied the state’s regulation of business, professions, and trades, and monitors the activities of state occupational licensing agencies and regulatory boards within the DCA. CPPC publishes the [*California Regulatory Law Reporter*](#), which chronicles the activities and decisions of California regulatory agencies. CPPC has participated in the sunset review of DCA boards and commissions since the onset of sunset review in 1996.

U.S. Supreme Court Precedent Demands Reform at SLPAHADB

CPPC has long argued that regulatory boards composed of a majority of licensee members—who can then control their own regulation and stand to benefit from anticompetitive decisions the board makes—violate federal antitrust law. In 2015, the U.S. Supreme Court validated CPPC’s position in *North Carolina State Board of Dental Examiners v. FTC*, 574 U.S. 494 (2015) (“*North Carolina*”). In that case, the Court recognized the inherent conflict of interest that exists when a state licensing board is controlled by members of the profession regulated by that board, and unequivocally held that state regulatory boards are not immune from federal antitrust scrutiny unless they are controlled by public members (and not “active market participant” licensees) **or** the state has created a mechanism to actively supervise the acts and decisions of these boards to ensure they benefit the public, and not merely the professions themselves. Since the issuance of the *North Carolina* decision, CPPC has participated in public hearings, submitted numerous letters explaining the decision, and supported legislation that would properly implement the decision.¹

SLPAHADB’s 6/3 licensee majority composition (Bus. & Prof. Code § 2531) not only presents fertile ground for anticompetitive conduct, but also places SLPAHADB in an especially vulnerable position with respect to antitrust liability in light of the *North Carolina* decision. The Board’s current composition is further egregious given that the Senate-appointed public member seat has been empty since 2022, and therefore the Board has been operating with an even more lopsided licensee majority, further reducing public oversight.

¹ See, e.g., SB 1195 (Hill) in 2016, which was vehemently opposed by the California Nursing Association. CPPC also respectfully disagrees with those who argue that DCA boards are “actively supervised” by the state. Board members make final disciplinary and other policy decisions which are not subject to review or ratification by the Department or any other state agency. Although the DCA Director is authorized to review and reject SLPAHADB rulemaking under the Administrative Procedure Act (APA), the Board may — by a unanimous vote — override the Director’s disapproval of regulations. See Bus. & Prof. Code § 313.1.

Accordingly, CPPC strongly recommends that the Legislature add four public members to the Board to guard against potentially anticompetitive conduct in the future and decrease the influence of the profession over Board decision making.

Grant SLPAHADB Statutory Authority to Establish an Inspection Program

SLPAHADB currently lacks statutory authority to establish a proactive and routine inspection program. While the Board has statutory authority to conduct inspections of records relating to the sale and fitting of hearing aids, SLPAHADB lacks authorization to create a regular inspection program. As such, the Board's enforcement program is solely driven by consumer-written complaints against its licensees. Granting SLPAHADB statutory authority to create an inspection program would benefit the public and improve the overall efficiency of the Board's enforcement efforts. A regular and routine inspection program would allow the Board to detect unlawful practices without the public needing to initiate complaints. The Board has previously cited the lack of an inspection program as complicating the Board's ability to verify whether advertisements would comply with the Board's regulatory proposal.² Granting statutory authority to establish an inspection program would further protect the public by deterring unlawful conduct from licensees and encouraging compliance. In addition to catching misleading or noncompliant advertisements, it would guard against licensees aiding and abetting unlicensed activity—issues that SLPAHADB has cited for common violations.

Additionally, granting SLPAHADB statutory authority to create an inspection program would also align the Board with other similarly situated regulatory boards. For example, the California State Board of Pharmacy has statutory authority to employ inspectors to inspect pharmacies, stores, and other places where drugs or devices are dispensed or stored during business hours.³ Similarly, the Veterinary Medical Board also has statutory authority to establish a program for announced or unannounced inspections of veterinary premises.⁴ Furthermore, the Optometry Board has authority to inspect premises where optometric services and contract lens services are provided or reasonably suspected of being provided.⁵ Granting SLPAHADB statutory authority to conduct similar inspections would bring the Board's enforcement tools in line with comparable California boards and enable it to correct violations before consumers are harmed.

SLPAHADB's Enforcement Program Should Be Scrutinized

Within this previous sunset cycle, SLPAHADB has routinely failed to meet its performance targets for completing investigations and imposing formal discipline. The Board's stated goal is to complete investigations within 90 days from receipt of a complaint and to impose formal disciplinary action within 540 days from receipt. However, the Board has far exceeded these timeframes. Since FY 2021-2022, SLPAHADB

² See [Notice of Proposed Regulatory Action Concerning: Hearing Aid Dispensing Advertising](#), Speech-Language Pathology and Audiology and Hearing Air Dispensers Board (July 31, 2023).

³ [Bus. & Prof. Code § 4008\(a\)](#).

⁴ [Bus. & Prof. Code § 4809.7](#).

⁵ [Bus. & Prof. Code § 3030](#).

has taken an average of 307 days to close investigations from receipt of complaint and has taken an average of 1,004 days from receipt to impose formal discipline.⁶ This far exceeds DCA's overall goal of completing consumer complaints within 12-18 months. The Board's failure to meet performance targets was flagged in the previous sunset report and enforcement timelines have only lengthened since then, since from FY 2017-2018 to FY 2020-2021, the Board took an average of 238 days to complete investigations from receipt of complaint and an average of 817 days to impose formal discipline upon receipt.⁷

Ensuring that the Board meets its performance targets is important for protecting the public. The time it takes to conduct investigations and impose discipline increases the risk that consumers may be treated by dangerous licensees. Additionally, timely enforcement strengthens public faith in the Board. Consumers may be discouraged from filing meritorious complaints against unsafe licensees if they believe the Board will fail to timely process and investigate their complaints. Scrutinizing the Board's failure to meet its performance targets would reassure the public that SLPAHADB conducts enforcement in a prompt and predictable timeframe. Accordingly, SLPAHADB's enforcement program warrants heightened legislative scrutiny to ensure the Board has the capacity to achieve its performance standards.

CPPC appreciates your consideration of this testimony and these recommendations.

Sincerely,

Marcus Friedman

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cc Cherise Burns, Executive Officer, Speech–Language Pathology and Audiology
and Hearing Aid Dispensers Board
Christine Lally, Acting Director, Department of Consumer Affairs
Hon. Monique Limón, Senate President pro Tempore
Hon. Robert Rivas, Speaker of the Assembly

⁶ [Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board Sunset Review Report 2026](#)
p. 58.

⁷ [Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board Sunset Review Report 2022](#)
p. 57-58.