

**NEW YORK STATE HEARING AID DISPENSING ADVISORY BOARD**  
**MEETING SUMMARY**

June 7, 2021

The meeting was held by the Department of State, Division of Licensing Services, via WebEx conferencing. A virtual meeting was held to comply with COVID-19 social distancing directives. Due to the fact the meeting of the NYS Hearing Aid Dispensing Advisory Board was held remotely, the public hearing section was held in abeyance.

**I. INTRODUCTIONS, ROLL CALL AND QUORUM ANNOUNCEMENT**

The meeting was called to order at 1:04 p.m. J. DeLollo took roll call and David Mossberg declared that there was a quorum present. The official attendance was as follows:

**BOARD MEMBERS**

Jerry Bergman  
Peter Fisher  
Eric Freeman  
Sharon A. Gavin  
Ana Hae-Ok Kim  
Anthony Macera  
Anne Orsene  
MarieAnn Zumpone-Weibley

**DEPARTMENT OF STATE STAFF**

David Mossberg  
Ernita Gantt  
Ernest Delaney  
Alison Lacy  
Emily Lupe  
Shannon Maguire  
Marcella Rose  
Denise Tidings

*Excused:*

**EX-OFFICIO BOARD MEMBERS**

Jodi DeLollo, representing  
Rossana Rosado, Secretary of State,  
Board Chair  
Jason Kramer, representing NYSED  
Commissioner  
Anita Vigorito, representing NYS DOH  
Commissioner

**VISITORS\***

Barbara Ahern, Hearing Health Care Alliance of NY  
(HHCANY)  
Fred Goossen, HHCANY, International Hearing Society  
(IHS)  
Eric Matson, HLAA-NYS/Rochester  
Barbara Kruger  
Carl Case, Jr.

\*Other Public Members

- A. Welcome New Board Members – J. DeLollo welcomed new members, S. Gavin and M. Zumpone-Weibley to the Board. The new members each introduced themselves and provided the Board with their respective backgrounds.

**II. SUBCOMMITTEE AND DEPARTMENT REPORTS**

- A. Enforcement Report – E. Delaney provided an Enforcement Unit report. He stated that his report would cover the period from March 21, 2021, to present. He reported that the Enforcement Unit received one consumer complaint since the last meeting and currently has a total of eight pending investigations. E. Delaney further reported on the eight cases that are currently opened and pending

investigation, stating that these allegations include: dispenser failed to issue a required refund (4), false/ misleading advertisement (1), unlicensed activity (1), and dispenser offering online hearing aids (1). He stated that the total number of complaints received over the past 12 months is 11 (one being an online hearing aid vendor) and reported the total number of complaints by category: audiologists = 0 complaints, hearing aid dispensers = 10, and hearing aid vendors = 1.

- B. Processing Report – E. Lupe reported on the provided May 2020 and May 2021 statistical reports. She explained that the total number of businesses and licensees are listed by county, class code, and license type and that the 2021 figures only include active licensees and may not cover expired licenses covered by EO 202.11 which allows licensed individuals to extend their license term during the current State of Emergency.
- C. Education Report – A. Lacy reported that the Bureau of Educational Standards continues to audit hearing aid dispensing renewal applications. She mentioned that those renewals that do not indicate approval code numbers or do not appear to include telecoil, infection control, and NYS and federal law, in addition to the balance of required hours, are not processed; they are sent to the Bureau for an educational compliance audit. A. Lacy stated that a renewal license will only be granted when satisfactory proof of education is provided. She reported that in 2021, 27 licensees have been audited and 21 have complied and one did not comply. She mentioned that of the five pending, most are within the timeframe to respond. A. Lacy stated that course availability appears to be adequate and has not been an issue raised by licensees.
- D. Examination Report - S. Maguire reported that the Department is continuing to require candidates to schedule their written examination in advance. She added that instructions on requesting a written exam date are posted on the Department's website under Examination Information and Schedule. She also reported the examination statistics for January through May 2021, reporting that the Hearing Aid Dispensing written exam was administered to 26 applicants with a pass rate of 69 percent and that the practical exam was administered to 40 applicants with an 86 percent pass rate.

### **III. NEW BUSINESS**

- A. Executive Order Update – D. Mossberg provided an update on the COVID-19 Executive Orders. He reported that the Governor has extended Executive Order 202.11, allowing licensing extensions through July 5, 2021. He added that if this Executive Order is further extended, the Department will post the update on our website.
- B. DOS Website Update – J. DeLollo mentioned that the Department's website has been redesigned to be consistent with the other State agencies. She stated that although there has been a change of format, the same information should be available and added that if anyone should notice that anything is missing, they should email D. Tidings (Board Coordinator) to alert us. P. Fisher mentioned that he was having difficulty finding the online consumer guide and asked if the Department could post it in a more visible area. J. DeLollo thanked P. Fisher for his suggestion and told him that the Division would follow-up.

C. “Direct to Consumer” Hearing Aid Sales – J. Bergman reported that in January, the Hearing Loss Association of America put out a press release expressing its concern on the Hearing Aid Act of 2017. He explained that some individuals are advertising OTC’s on television and the internet even though products that cannot yet claim to be OTC hearing aids since the FDA has not released regulations pertaining to OTC hearing aids. He added that clarification is needed as to whether these devices are FDA cleared or FDA registered, as these designations can be misconstrued by the public. He mentioned that the FDA needs to take swift action to protect the consumer. J. Bergman inquired if it would be permissible to make recommendations to the FDA. He added that NYS prohibits mail order hearing aid sales and that it is not the intent to curtail soon-to-come OTCs but rather to ensure that consumers are prevented from being misled.

E. Freeman mentioned that this has been a big topic and believes that the FDA has tabled this item until at least later in the year; he asked if a recommendation could be made to the State AG’s Office to put out a warning to New York State residents. D. Mossberg mentioned that there is an ex-officio member on this Board that represents the AG’s office. Members asked that this information be shared with the Board’s AG representative and stressed that consumers need to be informed. The Board members expressed that they would like the AG’s office representative to be present at the next meeting.

It was suggested that the OTC Subcommittee meet before the next Board meeting to start developing some framework of what needs to be done. It was also suggested that a revision of the online Consumer Guide be considered to help inform consumers of these new ways to obtain amplification and educate the consumers on their options.

J. Bergman mentioned that a coalition of the hearing loss community has been formed and is working towards getting New York State to be the 39<sup>th</sup> state to have a commission that represents the hard of hearing, deaf, and blind. He made a motion to create a body to represent this constituency. D. Mossberg requested that J. Bergman provide the Department and Board members with a draft proposal stating that any item requiring a vote needs advance notice. J. Bergman explained that the Coalition has revised a bill that was introduced in both houses in Albany; they have reached out to legislators and asked them to hold off until they could craft an improved bill. J. DeLollo asked J. Bergman to forward this information prior to the next Board meeting.

An inquiry was made as to what the Board can do to better assist the hearing-impaired community. A suggestion was made to clarify the role of the Board for all members. D. Mossberg stated that he would prepare an overview of the Board’s role and have it disseminated to members with a copy of the law booklet and mentioned that members could direct specific inquiries to him.

#### **IV. 2021 ADVISORY BOARD MEETINGS**

A. Next Meeting – D. Tidings announced that the next meeting of the NYS Hearing Aid Dispensing Advisory Board is scheduled for Monday, September 20, 2021, at 1 p.m.

An inquiry was made as whether virtual meetings would continue. D. Mossberg stated the Governor's current Executive Order that allows for virtual open meetings is due to expire on July 5, 2021. He mentioned that if there is an extension of this EO, the Department will post the update on our website. Some members mentioned that they feel the virtual meetings have been helpful in achieving a quorum. There was a Board member request to update videoconferencing technology if virtual meetings do not continue.

#### **V. ADJOURNMENT**

J. DeLollo adjourned the meeting at 2:26 p.m.