

NEW YORK STATE HEARING AID DISPENSING ADVISORY BOARD
MEETING SUMMARY

March 21, 2022

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. D. Mossberg took roll call and announced 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
Anne Orsene
MarieAnn Zumpone-Weibley

Excused:

EX-OFFICIO BOARD MEMBERS

David Mossberg, representing
Robert J. Rodriguez, Secretary of
State, Board Chair
Dr. Khalil Alshaer, representing Dr.
Mary T. Bassett, NYS DOH
Commissioner
Brant Campbell, representing
Letitia James, NYS Attorney General

DEPARTMENT OF STATE STAFF

Jodi DeLollo
Ernita Gantt
Jack Bilello
Emily Lupe
Shannon Maguire
Marcella Rose
Alison Lacy
Denise Tidings

GUEST

Kim Hill, Office of the Chief Disability Officer

VISITORS*

Barbara Ahern, Hearing Health Care Alliance of NY
(HHCANY)
Fred Goossen, HHCANY, International Hearing Society
(IHS)
Eric Matson, HLAA-NYS/Rochester
Barbara Kruger
*Other Public Members

- A. Welcome New NYS Health Department Representative(s) – D. Mossberg welcomed Dr. Khalil Alshaer as the new board member appointed on behalf of the Commissioner, Department of Health. He asked Dr. Alshaer to introduce himself to the Board. Dr. Alshaer stated that he is one of the medical directors in the Office of Health Insurance Programs (NYS-DOH); in general, he provides clinical support especially to the Medicaid Managed Care team. He added that he has a background in family medicine, preventative medicine, and in public health—with a focus on public health administration and practice. D. Mossberg explained that Dr. Alshaer is appearing as a Commissioner ex-officio, representing the Department of Health.

- B. Approval of 6/7/21, 9/20/21 & 12/6/21 Meeting Summaries – D. Mossberg asked if anyone would like to make a motion to approve the three prior meeting summaries if corrections were not in order. A. Orsene made a motion to approve the summaries, A. Kim seconded the motion. All were in favor and the three meeting summaries were approved.

D. Mossberg introduced a special guest, Kim Hill, of the newly established Office of the Chief Disability Officer. K. Hill stated that she was the new Chief Disability Officer. She mentioned that the newly established office will be handling the representation in the Chamber for all types of disabilities. D. Mossberg mentioned that this new office is a resource that we may collaborate and work with and thanked K. Hill for joining the meeting. K. Hill mentioned that individuals should feel free to reach out when there is something that may need their Office's attention.

II. SUBCOMMITTEE AND DEPARTMENT REPORTS

- A. Enforcement Report – J. Bilello provided an Enforcement Unit report that covered the period of December 2021 to March 2022. He reported that the Enforcement Unit received no new consumer complaints since the last meeting and that three complaints were closed. J. Bilello stated that the total number of pending investigations is five and reported on the nature of the complaints: two complaints have to do with allegations that certain hearing aid dispensers demonstrated incompetency and failed to issue a refund to a consumer; one active investigation regarding a dispenser that is allegedly offering online hearing aid services; one complaint about a dispenser that allegedly is engaging in misleading advertising in print media (advertising things beyond the scope of hearing aid dispensing practices); and one complaint about a certain hearing aid dispenser that was issued a registration reportedly by fraud or deceit and who is also a registered hearing aid dispenser instructor.

J. Bilello further reported that in the last 12 months, the Department has received two complaints regarding the hearing aid dispensing business, stating that one is against a specific dispenser and the other complaint is about a specific hearing aid business. He added that no complaints were received in the last 12 months regarding audiologists.

- B. Processing Report – E. Lupe reported on the provided February 2022 and April 2021 statistical reports. She explained that the report shows the total number of hearing aid businesses, broken down by county; a business list, broken down by class code or license type; and a report of hearing aid dispensers, broken down by type and by county. She added that the 2021 numbers include only licensees and do not include those licensees whose licenses may have expired, but were covered by Executive Order 202.11, which allowed individuals licensed by the Department of State to extend the expiration of their license during the 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 so far in 2022, 39 licensees have been audited and 22 have complied; 8 licensees did not comply. She mentioned that of the 9 pending, all are within the required timeframe to respond.

A.Lacy also reported on a new regulation that went into effect on December 7, 2021, that allows for qualifying and continuing education courses to be provided in a live distance education delivery method. She clarified that live distance education means providing instruction in real time where the approved instructor and the students are physically separated but the use of remote technology allows each person participating in the educational program to view and communicate with each other in a live and interactive manner that transmits live audio and video. She added that course availability appears to be adequate and has not been an issue raised by licensees.

D.Mossberg clarified that the allowance of live distance education in Section 159.1 is a permanent regulation.

E.Freeman asked if there was a particular process that needed to be followed to become approved as a live course provider. D. Mossberg stated that the live distance education regulation allows providers that are already approved by the Department as a regular course provider to seek additional authorization. He added that an entity that wished to provide the live distance course would need to go through the regular course approval process first and then, once approved, they would provide additional information on the technology used to ensure adequate education to the students. D. Mossberg stated that any questions should be directed to the Department's Education Unit. A. Lacy shared contact information. D. Mossberg mentioned that if members had additional questions, that they may reach out to him or D. Tidings, Board Coordinator.

D. Examination Report - S. Maguire reported statistics for Hearing Aid Dispensing exams administered in 2021. She stated that the written exam was administered to 52 applicants with a pass rate of 50 percent and that the practical exam was administered to 113 applicants with a pass rate of 86 percent.

A.Kim asked if information was available on pass rates for audiologists versus dispensers. S. Maguire stated that for the practical exam, the exam was administered to 66 audiologists with a pass rate of 89 percent and to 47 dispenser trainees with a pass rate of 80 percent and clarified that the written examination is only administered to dispenser trainees.

J. Bergman renewed his request to obtain trend data pertaining to audiologists. J. Bergman also mentioned a bill that is currently before the legislature. D. Mossberg provided some information on that bill (S3380), which he explained would amend GBL Section 802. D. Mossberg added that Dr. Kim would be inviting someone to speak on the proposed legislation at the next board meeting and that we would discuss the bill more fully at that time. He offered to send out copy of the law to members for review, prior to the next meeting.

E. Freeman made an inquiry regarding the exam and available statistical breakdowns to assist the providers in focusing on particular areas. S. Maguire stated that if anyone fails their exam, they may request a review of a written exam or an analysis of a practical exam to help identify their areas of weakness. E. Freeman stated his opinion on the need for advocacy for hearing impairment and the possibility of sharing hearing health guidelines with the medical community. A. Kim stated that the Academy of Geriatrics met with the Academy of Family Medicine and came up with some guidelines for the aging community; she offered to share that information which she explained was an educational pamphlet that she feels should be accessible to New Yorkers. A. Orsene agreed that it would be a good idea to get that information out to consumers. J. Bergman expressed that he would like to see a commission established to represent the entire realm of deafness (deaf, blindness, and hearing loss) and that the agencies would work more closely together in the public interest.

J. Bergman inquired as to whether there were any new information relating to OTC's. D. Mossberg stated that the official comment period for the FDA proposed regulations had expired after the last board meeting and that it would be up to the FDA to make a determination on how they are going to advance their proposal to a final rule. B. Campbell mentioned that the NYS Attorney General's Office had received only seven complaints since January. He added that since their office tracks complaints, they would be able to see if there is an increase in volume after the FDA legislation goes through. He also mentioned that there is an organization called the National Association of Attorney Generals that meet with other state attorney generals and that there is a subgroup looking into hearing aid fraud; he offered to share any worthy items that are revealed. A. Orsene asked if there would be a requirement to provide a consumer complaint number to consumers purchasing over-the-counter hearing devices, as is required of dispensing offices. B. Campbell offered to look into A. Orsene's inquiry.

III. NEW BUSINESS

- A. Newly Established Office of the Chief Disability Officer – D. Mossberg reported that the Governor's passage to create a newly established office—the Office of the Chief Disability Officer—will be helpful in addressing advocacy issues. He stated that Kim Hill was invited to today's meeting to inform the Board of this new office and their role. He added that the Department hopes to collaborate with her office and this agency for assistance in addressing advocacy issues.
- B. New Meeting Date – D. Mossberg mentioned that the next meeting of the Board is scheduled for June 2 at 1 p.m.

IV. ADJOURNMENT

D. Mossberg asked for a motion to adjourn. E. Freeman made a motion to adjourn; A. Kim seconded the motion. All were in favor and the meeting was adjourned at 2:14 p.m.