

NEW YORK STATE HEARING AID DISPENSING ADVISORY BOARD
MEETING SUMMARY

June 2, 2022

The meeting and public hearing 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.

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 Zumpono-Weibley

DEPARTMENT OF STATE STAFF

Ernita Gantt
Jack Bilello
Alison Lacy
Emily Lupe
Shannon Maguire
Marcella Rose
Denise Tidings
Paula O'Brien

EX-OFFICIO BOARD MEMBERS

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

VISITORS*

Barbara Ahern, Hearing Health Care Alliance of NY
(HHCANY)
Barbara Kruger
Carl Case Jr
Jane Arao
Jason Kramer
Lauren Schechter
Robert Glazer
Sujana Chandrasekhar

*Other Public Members

- A. Welcome New Office of the Attorney General Representative(s) – D. Mossberg welcomed Brant Campbell as the new board member appointed on behalf of the Office of the Attorney General. Brant Campbell introduced himself and provided the Board with his background.
- B. Approval of 3/21/2022 Meeting Summary – D. Mossberg asked if anyone would like to make a motion to approve the 3/21/2022 meeting summary if corrections were not in order. A. Kim made a motion to approve the summary, S. Gavin seconded the motion. All were in favor and the meeting summary was approved.

II. Public Hearing Pursuant to Part WW of Chapter 56 of the Laws of 2022 –proposed resolution authorizing the use of videoconferencing and written procedures governing member and public attendance

D. Mossberg opened the public hearing to consider the proposed resolution to authorize videoconferencing in case of extraordinary circumstances. D. Mossberg asked whether anyone in attendance wished to speak. There were no comments from the public addressed to the Board or the Division.

III. SUBCOMMITTEE AND DEPARTMENT REPORTS

- A. Enforcement Report – J. Bilello provided an Enforcement Unit report. He stated that his report would cover the period from March 2022 through May 2022. He reported that the Enforcement Unit received no new consumer complaints since the last meeting and that two complaints were closed. J. Bilello further reported that the three remaining open complaints are under investigation. He stated that only one complaint against a hearing aid business was received over the past 12 months, and no complaints about specific hearing aid dispensers have been received over the past 12 months.
- B. Processing Report – E. Lupe reported on the provided May 2018, May 2019, May 2020, May 2021 and May 2022 statistical reports. She explained that the total number of businesses and licensees are listed by county, class code, and license type and that the 2020 and 2021 figures only include active licensees and may not cover expired licenses covered by EO 202.11 which allowed licensed individuals to extend their license term 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, 64 licensees have been audited, 54 have complied, two licensees did not comply and eight are pending. She mentioned that of the 8 pending, all are within the required 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 on the examination statistics for January through April 2022, reporting that the Hearing Aid Dispensing written exam was administered to 17 applicants with a pass rate of 82 percent and that the practical exam was administered to 22 applicants with a 95 percent pass rate. The practical exam pass rate included 10 audiologists with a pass rate of 90 percent and 12 trainees with a pass rate of 100 percent.

IV. ACTION ITEMS

- A. Assessment of Public Comments and Consideration of Motion to Adopt Resolution and Written Procedures** – A discussion was led by David Mossberg, Licensing Counsel, to assess public comments and consider adopting the resolution and written procedures pertaining to the authorization of videoconferencing for members with extraordinary circumstance, to participate in future open meetings from a location not available to the public. D. Mossberg clarified the proposed resolution and written procedures. D. Mossberg asked for a motion to adopt the proposed resolution. A. Orsene made a motion; the motion was seconded E. Freeman. All were in favor, and the proposed resolution was passed. D. Mossberg asked for a motion to adopt the written procedures. E. Freeman made a motion; the motion was seconded by A. Orsene. All were in favor of adopting the proposed written procedures.

V. NEW BUSINESS

- A. Discussion on Legislative proposal – A discussion was led by D. Mossberg, Licensing Counsel, on two bills, S3380 which would amend GBL Section 802 and S5597 which would establish a new law. D. Mossberg provided the following information to the Board, if bill (S3380) were to advance, there wouldn't be a restriction on licensed physicians to engage in the dispensing of hearing aids for a profit; and if bill (S5597) were to advance it would establish a new law that would create the requirements to establish a specific pilot program to allow for-profit sales solely within the County of Westchester.

D. Mossberg clarified that the Department does not offer comment or opinion on pending legislation.

Board member A. Orsene inquired if a licensed physician would need to become a fully licensed registered hearing aid dispenser. A. Orsene also expressed concern for consumers protection.

Board member E. Freeman agreed with A. Orsene and expressed concern for consumers protection.

Board member M. Wibley piggybacked off A. Orsene's and E. Freeman's concerns for consumer protection.

Board member J. Bergman added there's very little to be gained and a good deal to be concerned about if the bill is passed.

Board member P. Fisher expressed concern over a licensed physician's objectivity over a patients need for amplification vs opportunity to profit.

Board member J. Kramer commented that the Education Department has continually opposed bill (S3380) as it is viewed as an infringement on a protected scope of practice.

Board member S. Gavin raised confusion/concern on how a pilot program (S5597) could be established if it goes against current rules about dispensing hearing aids.

Board member A. Kim agrees that individuals should be licensed if dispensing hearing aids. However, believes that hearing aid dispensers and Otolaryngologists working together would provide best care. A. Kim invited Dr Chandrasekhar and Robert Glazer to talk about their experiences.

R. Glazer introduced himself as being C.E.O. for a large private practice group. R. Glazer expressed concern for patient access and need for hearing health professionals. Would like the State to amend the legislation to allow otolaryngologists to work in conjunction with licensed audiologists.

S. Chandrasekhar, as previous president of the American Academy of Otolaryngology, promoted the belief that individuals with hearing loss are served best when they are cared for by a hearing healthcare team which includes an otolaryngologist in conjunction with an audiologist or hearing instrument specialist.

- B. Next meeting Date - Dave Mossberg announced that the next meeting date is scheduled for Thursday, September 22, at 1:00 pm.

VI. PUBLIC COMMENT PERIOD

Barbara Ahern commented that significant change would need to be made to the proposed legislation to provide consumers with all the protections they are currently receiving under the law.

Barbara Kruger commented any professionals in business involved in the dispensing of hearing aids should be licensed as hearing aid dispensers and required to take mandated continuing education.

B. Kruger commented licensed dispensers need to be reminded about posting sign regarding counseling and handing out brochures.

Jerry Bergman commented on the Senate unanimously approved bill S1852 and will now go to the governor for signature.

VII. ADJOURNMENT

D.Mossberg asked for a motion to adjourn. J. Bergman made a motion to adjourn; B. Kruger seconded the motion. All were in favor and the meeting was adjourned at 3:25 pm.