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STATE OF NEW YORK
DEPARTMENT OF STATE
HEARING AID DISPENSING
ADVISORY BOARD MEETING

DATE: June 22, 2023 at 1:03 p.m.
VENUE: WebEx
BEFORE: SECRETARY DAVE MOSSBERG

Reported by Annette Lainson

1 APPEARANCES :

- 2 BRANT CAMPBELL
- ANNA KIM
- 3 HEIDI HICKS
- LAUREN GALLACCHI
- 4 SHANNON MAGUIRE
- ALISON LACY
- 5 JENNA BERSCHWINGER
- EMILY LUPE
- 6 JODI DELOLLO
- JOHN GOLDMAN

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1 (The meeting commenced at 1:03 p.m.)

2 SECRETARY MOSSBERG: Good afternoon,
3 everybody. Thank you for joining this meeting of
4 the New York State Hearing Aid Dispensing Advisory
5 Board. I am David Mossberg, I am the Secretary's
6 designee and Board Chair. This is a regular
7 meeting of the board scheduled for one p.m. So,
8 if we can, I would just like to do a roll call.
9 We'll start in New York and then move to Albany.

10 MR. CAMPBELL: Hi, this is Brant
11 Campbell, designee for New York State Attorney
12 General Leticia James.

13 MS. KIM: Anna Kim, otolaryngologist,
14 designated by the Governor.

15 SECRETARY MOSSBERG: Okay and Albany?

16 MS. HICKS: It's all department staff
17 now. Do you wish for us to introduce ourselves?
18 Or is that not necessary?

19 SECRETARY MOSSBERG: It's not necessary.
20 There's no Board Members up in Albany?

21 MS. HICKS: Correct.

22 SECRETARY MOSSBERG: Okay. And in our
23 Buffalo office. Our screen is hard to view but do
24 we know if there are any Board Members present in
25 Buffalo?

1 MS. HICKS: No. Anne usually.

2 SECRETARY MOSSBERG: Okay. Okay. All
3 right. So, it appears as if there are only -- have
4 three members, one of which is the appointed and
5 the other two are the non-appointed ex-officio
6 members, so we do not have a quorum for today's
7 meeting. I would like just to note that earlier
8 this morning, the Department of State did receive
9 notification of the resignation of one of our
10 Board Members, Anne Orsene, and so going forward,
11 she will no longer be a member of the Board, but
12 we certainly value everything that she's done for
13 the Board in her years of service.

14 There being no quorum, we can skip Item
15 1A, approval of the last summary meeting, and
16 we'll go to new business. As some of you may
17 recall, at our last meeting we had discussed the
18 Federal regulations regarding O.T.C.s. One of our
19 Board Members had reached out requesting that the
20 Office of the Attorney General speak a little bit
21 beyond what we had discussed on O.T.C.s and so
22 I'll turn it over to Member Brant Campbell for his
23 presentation on O.T.C.s.

24 MR. CAMPBELL: Yeah. So, this is in
25 response to the Federal rule that became effective

1 on October 17, 2022, that established a new
2 category of over-the-counter hearing aids for
3 adults eighteen years old and older who've
4 received mild to moderate hearing loss. With
5 respect to state regs, I'm not aware of any state
6 regs, New York State regs, pertaining to over-the-
7 counter hearing aids, but we need to keep in mind
8 that the Federal law preempts states from
9 regulating over-the-counter hearing aids in a
10 manner that restricts or interferes with carrying
11 out the rule. So, one example of something that
12 New York State reg couldn't do is it couldn't
13 require a person to see an audiologist in order to
14 receive an over-the-counter hearing aid. Another
15 thing that a New York reg couldn't do is change
16 the age from eighteen and older to twenty-one and
17 older. So, New York doesn't have any ability to
18 regulate this area in a way that's going to either
19 restrict or hinder the purpose of the Federal
20 government's rule. One thing that states,
21 including New York, can do is they could create a
22 regulation that, for example, sets a mandatory
23 return period for an over-the-counter hearing aid
24 or that sets a mandatory warranty period for over-
25 the-counter hearing aids. So, those are some

1 things that can be regulated. Again, I'm not
2 aware of any regulations that are actually in
3 existence yet. Was there a question with respect
4 to anything that I've spoken about?

5 And then I just had a couple of things.
6 The F.D.A., they have said you can report problems
7 to the F.D.A., problems relating to injuries,
8 malfunctions or adverse effects regarding over-
9 the-counter hearing aids. They want to know about
10 those problems. If you have -- if anyone has a
11 problem, typical sort of consumer-related problem,
12 for example, if the hearing aid is advertised in a
13 particular way, you get the hearing aid, it
14 doesn't have those features. That's something
15 that our office can handle. Another type of
16 example could be the price that's advertised is
17 not the price that they actually sell it for once
18 you get into the store. So the typical, sort of
19 consumer-related issues of something that states
20 can get involved with and the New York state
21 Attorney General's office, you can file a
22 complaint through our website to the Consumer
23 Frauds Bureau, and our website is ag.ny.gov, and
24 we also have a consumer helpline if you'd rather
25 make a complaint that way and the number for that

1 is 1-800-771-7755. And if you have any questions,
2 you know, you can reach out and we can try to
3 assist.

4 SECRETARY MOSSBERG: Thank you very
5 much. So I'll ask if anybody in Albany has any
6 questions for Brant at this time?

7 MS. HICKS: No.

8 SECRETARY MOSSBERG: Okay. So, the next
9 item on new business is scheduled and confirming
10 the next Board Meeting date. Lauren?

11 MS. GALLACCHI: Sure. Thursday,
12 September 7th, 2023.

13 SECRETARY MOSSBERG: Okay. And
14 obviously, I guess for the moment if that day
15 doesn't work, feel free to reach out to Lauren and
16 we can help try to coordinate schedule, but that's
17 the date that's currently scheduled.

18 MS. KIM: Well, going forward, it always
19 has to be in person.

20 SECRETARY MOSSBERG: Yes. All right,
21 the next item was public comment. There's no
22 members of the public in New York City. It
23 doesn't look like there's anyone in Albany.

24 MS. HICKS: Correct.

25 SECRETARY MOSSBERG: Okay. So, there

1 being no public comment and nothing further, we
2 can adjourn the meeting. Thank you everybody.

3 (The meeting concluded at 1:11 p.m.)

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1 STATE OF NEW YORK

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3 I, ANNETTE LAINSON, do hereby certify that the
4 foregoing was reported by me, in the cause, at the
5 time and place, as stated in the caption hereto,
6 at Page 1 hereof; that the foregoing typewritten
7 transcription consisting of pages 1 through 7, is
8 a true record of all proceedings had at the
9 hearing.

8

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 7th day of July,
11 2023.

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12 *Annette Lainson*

13 ANNETTE LAINSON, Reporter

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