

RESPONSE FROM THE BOARD OF HEARING AID DISPENSERS

OCTOBER 5, 2011 at 1:30 p.m. Room 137 Capitol Building

The Economic Affairs Committee asks that Board Representatives Answer the Following Questions during the Board Review under House Bill No. 525:

* What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?

Hearing aid dispensers predominately service disabled and the elderly population. The Board protects the public from incompetent, unprofessional and unethical health providers. The Board accomplishes this mission through the performance of three key functions: licensure, discipline and regulation.

*If your profession/occupation were not licensed, what public protection would be lost?

Consumers receiving hearing aids from non audiologist dispensers would have little or no protection from incompetent, unprofessional and unethical health providers, especially in rural areas.

*If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.

Yes, hearing aid dispensers predominately service disabled and the elderly population. The Board protects the public from incompetent, unprofessional and unethical health providers, especially in rural areas.

*Does your board deal with unlicensed practice issues? If yes, what types of issues?

Yes, failure to obtain a license which is a state law.

*People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?

The Legislature finds and declares that the practice of hearing aid dispensers in the state affects the public health, safety, and welfare. The Board protects the public from the unqualified practice of dispensing hearing aids or unprofessional conduct by qualified practitioners. Hearing aid dispensing is a dynamic and changing art and science that is continually evolving to include new medical technologies and more sophisticated devices in patient care.

*How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?

The Business Standards Division has developed a "Board Member Manual" for board member policy and processes. The Division also sponsors a Board Member Training for all members to attend. There is training and instruction on how and when to recuse oneself when there might be a conflict of interest or bias.

In addition the board member composition is an avenue to monitor bias. The Board consists of five members appointed by the governor to include: two members, each of whom has been a licensed hearing aid dispenser for at least 5 years, possesses a current audiologist license and has a master's level college degree; two members, each of whom does not hold a master's level college degree in audiology but has been a licensed dispenser and fitter of hearing aids for at least 5 years before being appointed to the board; and one public member who is either an otolaryngologist or a person who is not a licensed hearing aid dispenser or a licensed audiologist and who regularly uses a hearing aid because of a demonstrated hearing impairment.

*Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

No. Associations are in existence for the cohesion of the profession and the interest on behalf of the industry.

*Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?

Yes, hearing aids are sometimes covered by insurance and a licensure number is required for payment.

*What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?

Knowledge of the profession, expertise in the profession, and these are peers of the licensees they oversee. The Board includes other professional representatives of organizations that work with the elderly and/or disabled. Finally, the Board includes public representation. This board representation ensures an unbiased and fair approach to disciplinary and other issues.

*Is there an optimum ratio between licensees, board size, or public representation?

Yes, number of active licensees = 77, number of inactive licensees = 7, and a 5 member board.

*If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?

No. The Board is concerned that there may be areas of unprofessional conduct that a third party may not recognize or have jurisdiction. However, the Board is exploring the option of working with the Office of Consumer Protection and Victim Services to protect the consumer. Currently the Board should be responsible for monitoring fraud as per statute.

*If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?

No. Each profession has a specific scope of practice and educational requirements.

*Should any board have the ability to limit use of certain terminology to only a licensee? (see for example under the Board of Psychologists, the exemption from definitions:)

37-17-104. Exemptions. (1) Except as provided in subsection (2), this chapter does not prevent:

(a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a psychological nature consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "psychology", "psychologist", "psychological", or "psychologic"....

(2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold themselves out as performing psychological testing, evaluation, and assessment, as described in 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

Yes. **37-16-103. Exemptions.** (1) This chapter does not apply to a person who is a physician licensed to practice by the state board of medical examiners.

(2) This chapter does not apply to a person while the person is engaged in the practice of fitting hearing aids if the person's practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public agency.