

**Oregon Health Licensing Agency (OHLA)  
Advisory Council On Hearing Aids  
Minutes of October 3, 2008**

**MEMBERS PRESENT**

Don Plapinger, Vice Chairperson  
Martha Kocer, Hearing Aid Specialist  
Scott Frink, Hearing Aid Specialist/Audiologist  
Fred Peters, Public Member  
Don Cloutier, Hearing Aid Specialist

**MEMBERS ABSENT**

Tricia J. Leagjeld-Storch, Hearing Aid Specialist

**STAFF PRESENT**

Susan Wilson, Director  
Tricia Allbritton, PSPD Manager  
Sami Patnode, Quality Assurance  
Lisa Murphy, Council Specialist

**AUDIENCE MEMBERS**

Chris Gustafson  
Paul Willoughby

**CALL TO ORDER**

Don Plapinger, Vice-Chair, called the meeting of the Advisory Council on Hearing Aids to order at 1:10 p.m. on October 3, 2008, at the Rhoades Conference Room, located in the Oregon Veterans' Affairs Building, 700 Summer St. NE, Salem, Oregon.

**APPROVAL OF AGENDA**

**MOTION**

Mr. Cloutier made a motion with second by Mr. Peters to approve the agenda for October 3, 2008. Aye: Mr. Plapinger, Mr. Frink, Mr. Peters, Mr. Cloutier and Ms. Kocer. Nay: None. The motion passed.

**APPROVAL OF MINUTES**

**MOTION**

Mr. Cloutier made a motion with a second by Mr. Frink to approve the minutes of May 8, 2008 and August 15, 2008. Aye: Mr. Plapinger, Mr. Frink, Mr. Peters, Mr. Cloutier and Ms. Kocer. Nay: None. The motion passed.

**REPORTS**

**DIRECTOR'S REPORT**

Ms. Wilson, Director, provided an overview of the agency-wide legislation LC 831. LC 831 continues to conform and streamline agency standards, regulation and requirements for programs and professions regulated by the agency. The legislation makes program changes, technical adjustments and corrections, maximizes the benefits of economies of scale, regulatory consistency and accountability to continue to achieve solutions and outcomes for consumer protection. The legislation establishes consistent term limits (two consecutive four year terms) and stipulates at

least one public member be appointed to all boards. The legislation proposes professional development through prescribed education or training and identifies practice standards, testing and oversight as determined by agency rule.

Ms. Wilson stated that the Oregon Health Licensing Agency's proposed legislation encompasses some of the topics reviewed by the Interim Committee on Health Care chaired by Representative Mitch Greenlick. Representative Greenlick's legislative interim committee revealed board membership and the appointment process are not uniform nor is the number of public members serving on these boards. Representative Greenlick's interim study may recommend to the 2009 Legislature an increase in public members on boards to 50%. The recommendation may also include other improvements and changes in board specific areas.

Ms. Wilson stated there was general opposition among professional association representatives at the interim committee public hearing to the proposal to increase the number of public members on boards to 50%. Ms. Wilson stated since the role of boards is public protection, it is logical at least one public member serve. She stated board members will have an opportunity to review both agency legislation and any other legislation after the bills are drafted by legislative counsel. The Legislature begins Monday, January 12, 2009.

Ms. Wilson referenced the Oregon Health Care Workforce Institute PowerPoint presentation noting the legislature is considering a committee to review scope of practice issues. Governor Kulongoski has requested a study of Oregon's preparedness for a shortage in health care providers during the next decade. The study will identify areas with projected shortfalls and recommend solutions.

Ms. Wilson said bills are currently being drafted and will be ready in January of 2009. The bill, if approved, will not be made effective until 2010.

## **ADMINISTRATIVE SERVICES DIVISION**

Mr. Simpson, Quality and Statistical Analyst, reported the licensing statistics for the biennium.

- Permanent licenses issued: 40
- Temporary licenses issued: 25
- Renewals over the counter or by mail: 322
- Online renewals: 163
- Average number of active licenses held: 410

Mr. Simpson stated online renewals are encouraged since it saves the agency time and money. Mr. Frink suggested either making online renewals less expensive or paper renewals more expensive. Ms. Wilson said this is being considered.

Mr. Simpson reported the regulatory statistics for the biennium.

- Complaints received: 24
- Proposed orders: 11
- Final orders: 7

Mr. Simpson reported the examination statistics for the biennium, noting that the last examination was held on July 10, 2008. He noted 10 individuals were scheduled to take parts of the examination; one individual was a no show. The Council discussed the pass/fail rates for the practical and written examination.

Mr. Simpson reported the statistics for the website traffic:

- Page hits: 6025
- Average hits a day: 194
- Average number of pages visited each day: 113
- Visitors to the Hearing Aid web site: 642
- Top 3 most viewed pages:
  - Home page
  - Consumer protection page
  - Council on Hearing Aids Laws and Rules page

Mr. Paul Willoughby, audience member, asked what percentages of licensees are audited for continuing education. Mr. Simpson stated 10% of the licensee base are reviewed during renewal. He noted the agency is currently auditing continuing education for 2006 and 2007 and will report the outcome at the next council meeting.

## **REGULATORY OPERATIONS DIVISION**

Mr. Molloy, Regulatory Operations Division Manager, reported on the audit of open case files for all programs in OHLA. The audit showed data had been entered incorrectly and these errors have been corrected. Each case file was reviewed, finalized and closed out during the review process.

Mr. Paul Willoughby asked if the complaints had decreased since in the last year. Mr. Molloy replied those received recently were being settled between the client and specialist or through staff mediation.

## **HEARING ENHANCERS**

Mr. Molloy answered questions concerning the sale of hearing enhancers. According to Oregon Revised Statutes (694.015 to 695.185), hearing enhancers do not fit the definition of hearing aids and are not designed to correct defective human hearing. They are marketed and sold as a tool to enhance normal human hearing for predominately recreational use.

The members discussed the need for a rule fitted for fitted hearing enhancers or mail order hearing aids. Mr. Chris Gustafson, audience member, said these devices are available over-the-counter. The three groups attending the International Hearing Society convention are drafting a letter to the Federal Drug Administration (FDA) to put a "Stop and Desist" order in place and requested the Federal Trade Commission (FTC) and the FDA review the issue.

Mr. Molloy responded to a consumer asking: If a client died could a relative use the hearing aid device? He stated that it was fine to do so according to rule, but the device should be reconfigured for the new user and a new agreement stipulated.

## **PERMANENT ADMINISTRATIVE RULES**

Ms. Allbritton, Senior Policy & Strategic Analyst, drew the board's attention to the permanent rule filing which went into effect October 1, 2008, changing the fees and continuing education reporting periods.

Ms. Allbritton explained that within Legislative Concept 001 the agency is proposing a dormant license, which would allow OHLA licensees to their license in a dormant status if they meet certain qualifications. The concept also includes multiple copies of licenses, up to three, being issued to licensees if they work in multiple locations. Upon passage of the bill the details will be outlined within administrative rule.

## **CONTINUING EDUCATION ROLL OUT**

Ms. Patnode, Qualification and Examination Analyst, stated that the Continuing Education Rollout will be posted on the Council's Web site with a fact sheet that explains the process of audits. Ms. Patnode explained that upon current renewal, licensee will attest to 12 hours for the current one-year continuing education (CE) reporting period. Upon renewal in two years, you will attest to 24 hours for a two-year CE reporting period.

Ms. Patnode presented the Qualification Application for permanent licensure and the Examination Application as separate documents. Each has a separate fee as follows:

- Permanent qualification application: \$125 to cover the cost of reviewing application.
- Examination application: \$150 written, \$175 practical, Oregon laws and rules \$50, and Audiologists \$50.

## **OUTREACH AND COMMUNICATION**

Mr. Bohot, Communications Coordinator, discussed the press release sent out regarding the reduced fees and renewal cycles, along with a new brochure about compliance, which is now available on our website.

Mr. Bohot stated that the information discussing the new fees will also be sent through the Licensing Line, a free online newsletter that goes out to over 2,000 stakeholders. He showed the Web site includes a page to "Locate a Hearing Aid Specialist" that takes a consumer through the steps to find a Hearing Aid Specialist by location within the state and is linked to our database system.

Mr. Plapinger asked if there was a way to list which specialist were also audiologists or to show a dual licensure. Mr. Bohot explained this is a link to our database system that will only show the license type of the practitioners that the agency regulates. This is set up for consumers as a course of public protection and is governed by the state, which has certain parameters to follow.

The members recommended changing the name of the Profession In Brief link on the right-hand navigation to Who Is Licensing to Sell Hearing Aids. The purpose would be to provide consumers with an overview of specific professional who may be licensed to sell hearing aids including audiologists and otolaryngologists.

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**ITEMS FOR COUNCIL ACTION****2009 SUBCOMMITTEES**

Subcommittees provide review and discussion of specific issues, which usually require more in-depth fact-finding and deliberation than can be scheduled at periodic board meetings. The council shall nominate committee members.

Examination	Don Cloutier Scot Frink Martha Kocer
Enforcement	Scot Frink Don Plapinger Don Cloutier
Education/Curriculum/Continuing Education	Don Cloutier Scot Frink Martha Kocer Chrisopher Gustafson will attend as a consultant
Legislation and Rules	Scot Frink Don Cloutier Don Plapinger
Public Protection and Safety	Scot Frink Fred Peters Tricia Leagjeld-Storch
Communication Committee	Fred Peters and Tricia Leagjeld-Aldrich
Customer Connection	Fred Peters

**MOTION**

Mr. Frink made a motion with a second by Mr. Cloutier to approve the 2009 subcommittees as listed. Aye: Ms. Kocer, Mr. Plapinger, Mr. Frink, Mr. Cloutier and Mr. Peters. Nay: None. The motion passed.

**2009 BOARD MEETING DATES**

The Council on Hearing Aids meets on a biannual basis with all meetings scheduled for 1:00 pm on a Friday.

**MOTION**

Mr. Frink made a motion with a second by Mr. Cloutier to accept the meeting dates of February 27, 2009 and October 2, 2009. Aye: Ms. Kocer, Mr. Plapinger, Mr. Frink, Mr. Cloutier and Mr. Peters. Nay: None. The motion passed.

**2009 CHAIR AND VICE CHAIR**

The Council on Hearing Aids shall elect a chairperson and vice-chairperson for 2009.

**MOTION**

Mr. Frink made a motion with a second by Ms. Kocer to appoint Don Plapinger as Chairperson and Don Cloutier as Vice-chairperson Aye: Ms. Kocer, Mr. Plapinger, Mr. Frink, Mr. Cloutier and Mr. Peters. Nay: None. The motion passed.

## **2009 EXAMINATION DATES**

The Council has traditionally scheduled examination dates on a quarterly. In the past, all exams have been held at Portland State University (PSU). OHLA reported relocating the Hearing Aid Specialist practical examination to Salem. The proposed location is the Department of Agriculture, Basement Conference Rooms 635 Capitol St NE, Salem, Oregon. There is no cost for the examination space and expends less staff time and resources.

### **MOTION**

Mr. Cloutier made a motion with a second by Mr. Frink to accept the examination dates at the location of the Department of Agriculture, Basement Conference Rooms, as follows. Aye: Ms. Kocer, Mr. Plapinger, Mr. Frink, Mr. Cloutier and Mr. Peters. Nay: None. The motion passed.

- January 8, 2009
- April 8, 2009
- July 9, 2009
- October 8, 2009

### **EXECUTIVE SESSION**

None

### **OTHER COUNCIL BUSINESS**

Mr. Plapinger voiced concern regarding customers being charged for copies of hearing evaluations, screenings and tests. He asked if it is in rule that hearing aid specialists are allowed to charge the customer for these results. Ms. Allbritton stated that the advisory council regulates the consummation of a hearing aid sale and anything prior to the consummation would be considered a business practice, not under regulation. The Council discussed this in detail.

Mr. Frink made a motion with a second by Mr. Peters adding to the administrative rule: When giving a free hearing evaluation, screening or test a copy of the report and/or results will be given to the customer upon request. Aye: Ms. Kocer, Mr. Plapinger, Mr. Frink, Mr. Cloutier and Mr. Peters. Nay: None. The motion passed.

Ms. Allbritton stated that since the advisory council does not regulate anything prior to the consummation of a hearing aid sale she would have to research the potential rule change for authority to regulate. She will report the outcome at the next council meeting.

### **PUBLIC COMMENT**

Outgoing Advisory Council on Hearing Aids chair, Chris Gustafson: "I will always be available to any Council member to help out or consult with and I will definitely continue to attend the Council meetings. I have been on the Council for 13 years and have only missed one meeting. Members: Take the Council appointment seriously, it's a great profession and a great Council that offers each of you a chance to serve and do your part."

### **MISCELLANEOUS**

The council interest file was made available for members to review.

### **MOTION**

Mr. Cloutier made a motion with a second by Mr. Frink to adjourn the meeting.

The meeting was adjourned at 3:57 p.m.

*I attest that the Advisory Council on Hearing Aids Council minutes of October 3, 2008, are a true and accurate reflection of the matters discussed and the views of the participants.*

Lisa A. Murphy, Council Specialist