



**Oregon Health Licensing Agency (OHLA)
ADVISORY COUNCIL ON HEARING AIDS**



1:00 pm Friday, February 26, 2010
700 Summer Street N.E., Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Donald Plapinger, Chair
Don Cloutier, Vice-Chair
Tricia Leagjeld-Storch
Martha Kocer
Scot Frink

MEMBER ABSENT

Fred Peters

GUESTS PRESENT

Real Time Captioner
Jonathan Hamm
John Brenneman
Cheryl Blackman
Diane Pavlieck
Tammy Clark

STAFF PRESENT

Randy Everitt, Director
Sinnamon Harris, Board Specialist
Kraig Bohot, Public Information Officer
Tim Molloy, Regulatory Operations Manager
Sylvie McMillan, Business Services Manager
Cerynthia Murphy, Qualification Analyst
Katherine Lozano, Assistant Attorney General

Call to Order

Donald Plapinger, Chair, called the meeting of the Advisory Council on Hearing Aids to order at 1:08 pm on Friday, February 26, 2010, at the Rhoades Conference Room, located in the Oregon Veterans' Affairs Building, 700 Summer Street NE, Salem, Oregon.

1. Approval of Agenda

MOTION:

Don Cloutier made a motion with a second by Tricia Leagjeld-Storch to approve the agenda for February 26, 2010. The motion passed unanimously.

2. Approval of Minutes

MOTION:

Martha Kocer made a motion with a second by Don Cloutier to approve the October 2, 2009, minutes.

3. Reports

o Director's Report

Randall Everitt, Director, used a PowerPoint presentation to clarify OHLA's role as an agency and the Advisory Council on Hearing Aids role. Highlights included the purpose of the agency to provide for the more effective coordination of administrative and regulatory functions involved in protecting the public. In addition, part of the council's role is to advise OHLA in matters pertaining to standards of practice, professional conduct, and the preparing of examinations.

Everitt discussed some of the issues concerning the Governor's Reset Committee. Everitt remarked that the agency is self-supporting through licensing fees and does not rely on general fund, or tax dollars. He spoke about boards that may be duplicated through other boards, or small boards that do not have the necessary infrastructure to operate, for example. The Reset Committee will make sure those types of boards are well regulated.

o Outreach and Communication

Kraig Bohot, Public Information Officer, presented information regarding a proposed online publication called *Central Issues*. The goal is to communicate the key, or central, issues of each profession from a licensing and regulatory perspective to licensees and to consumers. OHLA is requesting feedback from the council members in determining what those central issues should be. Possible issues discussed were: two-year degree requirement for licensure, eliminating temporary licenses, and a reminder to licensees and consumers that audiologists and physicians no longer must be licensed by OHLA to dispense hearing aids. Don Plapinger remarked that the local chapter presidents of hearing aid advocacy groups should be on the e-mail list to receive the publication. Bohot responded that he would make sure that the Department of Human Services (DHS) along with any other appropriate state agencies are on the e-mail list also.

o Statistical Report

Sylvie McMillan, Business Services Manager, went over statistics that included licensing and examination statistics, active license trends, and Web site traffic. She noted that 158 licensees dropped off who now don't have to be licensed because they are audiologists. Their fees were prorated for a refund and out of 44 who were eligible 34 have already received their refund. McMillan stated that there is no time limit for the refund although the mechanism for receiving the refund may change. The board asked for the overall pass/fail rate of the examinations because of the unique situation of the audiologist drop-off. McMillan gathered and provided these statistics and presented later during the meeting: exams passed overall 85% (53/9), Oregon Laws & Rules passed overall 56% (15/12), for a combined passed percentage of 76% (68/21).

o 2009-11 Budget

McMillan presented the cumulative revenue and expenditures statement of cash flow for the 7/01/09-1/31/2010 period along with the projected cash flow statement for 7/01/2009-6/30/2011. The Advisory Council for Hearing Aid budget figures changed somewhat due to the drop off of audiologists from licensing revenues. McMillan explained how the small board assessment rate and how the license volume and workload complexity rates figure into the cost allocation for the council in great detail.

○ **Regulatory Operations Division**

Tim Molloy, Regulatory Operations Manager, reported enforcement activity for the September 11, 2009, through February 12, 2010 reporting period. Since the last council meeting held on October 2, 2009, the agency received 10 complaints. Of these 10 complaints, seven were service related, two were licensing related, and one was critical licensing related. The investigative results were: one resolved, seven unfounded, one resulted in a civil penalty, and one case is still under investigation. Case #09-5806 was resolved when the complainant withdrew the complaint. Case #09-5824 was fined a civil penalty. Case #09-5906 is currently being investigated.

At the last meeting, it was reported that there were two complaints still under investigation. Case #09-5756 was resolved and case #09-5665 resulted in a Notice of Revocation. Molloy provided the report, which included violation details to the council members, and a copy will be placed in council documents for retention.

○ **Over-the-Counter Hearing Aids**

Scott Frink contributed a YouTube video link to an advertisement for a personal sound amplifier that was projected on the screen for the council members and guests to view. Frink also passed around an over-the-counter personal hearing device he had purchased at Walgreens Pharmacy. After much discussion of the different devices the council turned to Katharine Lozano, Assistant Attorney General, for advice on how to proceed. Lozano stated that first it must be established that OHLA and the council have the authority to regulate the personal sound amplifiers. Martha Kocer commented that the issue of regulating personal sound amplifiers should be addressed on a national level as the use may create a health issue and the issue is too large for the council to address.

MOTION:

Don Cloutier made a motion with a second by Scott Frink to see if regulating personal sound amplifiers is within the council's scope of practice.

Discuss followed concerning the costs of having Katharine Lozano research and a possible time limit. Frink commented that the council should spend the money in an effort to protect consumers, as the consumers are not receiving the hearing care that they really need with these devices. Plapinger remarked that the motion may need restrictions as to number of hours Lozano devotes to this issue. If her time appears to extend beyond the number of hours allowed, then Ms. Lozano may come back to the board for further instructions.

Frink made a motion to amend the motion made by Don Cloutier to add a limit of up to 10 hours for research done by Lozano, with a second by Don Cloutier. Don Cloutier, Scot Frink, Tricia Leagield-Storch voted aye, Martha Kocer voted nay, and the motion passed.

Lozano stated she would define the scope of the question to board members first before beginning the research. She stated that 10 hours would not be enough time to research all potential devices. Lozano stated that the question needs to be tailored and framed a little more narrowly. Frink offered that the devices under consideration are personal sound amplification devices. These devices are not specifically designed to improve the hearing of the hearing impaired. Cloutier offered to provide a list of devices for consideration to Lozano.

4. Items for Board Action

o 2011 Legislative Concept

Cerynthia Murphy, Qualification Analyst, sitting in for Samantha Patnode, Policy Analyst, distributed information packets concerning the review and approval of proposed legislative concepts. On January 22, 2010, the Legislative/Rules committee for the Advisory Council on Hearing Aids meet to discuss implementation of examination and education requirements.

Plapinger stated the objective during the January 22, 2010 committee meeting was to have the associate degree as the entry level requirement for new people entering the profession. He further stated current practitioners within Oregon and persons coming in from out of state would not be required to obtain a two-year degree. Plapinger advocated a two-year degree for public protection especially in light of the technical advances and complexity of the new hearing aids. He stated the degree adds theoretical experience that can be applied practically. Practical without theory creates room for error and a two-year program adds to the integrity of the profession with more dedicated practitioners. Plapinger stated that the two-year program would be one year of classes and one year of clinical experience.

Frink stated he favors the two-year degree program and just wanted to know if it can be done by rule or must be legislation. Frink offered a brief summary of the evolution of the hearing aid profession using audiology as an example. He remarked about the difference from what people in the profession needed to know 60 years ago compared to what that knowledge base needs to be for current times. One-hundred sixty hours of on-the-job-training is not enough to equip someone to enter into the hearing aid specialist practice. Frink mentioned it would be essential to have a transition period to implement the two-year degree requirement and to allow that program to be created.

Cloutier stated he was afraid that requiring a two-year degree would impose a hardship and possibly keep people out of the profession. He stated that the board needs to look at something less than two years but update the education.

Leagjeld-Storch stated that her family has been in the profession for 60 years. She stated that she learned through apprenticeship and disagrees that the two-year program is the only option for entry level. Perhaps more hours under apprenticeships may be an avenue so that the trainee may earn a living.

Kocer advocates for making the profession and thus the customer service better. She noted that grievous violations are happening within the industry. Kocer suggested a deadline of approximately four years for individuals to obtain their two-year degree. She mentioned that International Hearing Society (IHS) has a home study program with a board-certified sponsor who navigates the candidate through the practical experience.

Murphy stated from a 2008 survey of community colleges there are certification programs already established.

McMillan reiterated that the proposed legislative concept applies to new licensure applications only and does not affect those practitioners already licensed. She pointed out the “or” under ORS 694.055 section (20(a)) that allows for equivalent training and hours.

Cerynthia Murphy, Qualification Analyst, clarified the legislative concept reminding council members that ORS 694.055 is for application for license; qualifications; fee, and OAR 331-610-0010 is for the training and/or experience requirements.

MOTION:

Cloutier made motion to approve the legislative concept with the change completion of education and training as defined by rule with a second by Frink. The motion passed.

5. Executive Session

No executive session held.

6. Public Comment/Other Board Business

Public comment opened up and limited to the discussion of two-year degree requirements.

Cheryl Blackman, Vice-President for the Oregon Hearing Aid Society (OHS), presented a statement of position from the society to the Advisory Council on Hearing Aids. The statement, in essence, provided the council with a recent survey of the OHS membership's feelings as to what direction Oregon licensure should take. Twenty-four and a half percent voted to keep the current licensing procedures, 26.5% voted to require a two-year associate degree for licensure, and 49% voted to develop a standardized licensing program for licensure. The position statement was added to the council's meeting materials for retention.

Tammy Clark, representing Costco, provided a Hearing Aid Apprentice Proposal that centered around the National Board Certification in Hearing Instrument Sciences (NIHIS) distance learning for professionals in hearing health sciences. Clark researched 25 states and found 18 states require an apprentice permit for licensure. The IHS program is the standard in 30 states. Clark stated the Costco training program geared toward the IHS model. The proposal was added to the council's meeting materials for retention.

Diane Pavlieck, Costco, stated Costco has had problems getting enough people licensed in order to staff locations all over the country. Pavlieck stated that six persons passed the test this year based on IHS standards. She favored apprenticeship option in lieu of two-year degree program.

John Brenneman, OHS lobbyist, encouraged the council to work with the Oregon Hearing Society.

○ **Earmolds**

Everitt stated Katharine Lozano, OHLA Assistant Attorney General, opinion regarding charging separately for hearing aids and hearing aid earmolds. Under current statutes and rules, if a hearing aid specialist wishes to issue consumers separate bills for the creating and fitting of the earmold, and the delivery of the hearing aid, it appears that the specialist may do so, but will still be required to refund earmold payments made, if the consumer cancels the transaction before the earmolds are delivered. Everitt stated, however, because the refund provision is set forth only in rule, and not in statute, the agency may elect to change the rule.

MOTION:

Don Cloutier made a motion to make a rule change where the earmold would not be part of the hearing aid sale. Everitt restated and clarified the motion stating that if a client orders a custom earmold and defaults, then the hearing aid specialist would keep any monies paid for that earmold. Cloutier agreed that was the motion. The motion died for lack of a second.

○ **Education/Examination Committee Meeting Discussion**

The agency recommends the council defer to the education committee the review of current training requirements for hearing aid specialists. The agency has the authority in rule to change the required training hours, which currently is 160 hours.

Areas for the committee to consider:

1. Discuss how to increase training within rule
2. What areas under OAR 331-610-0010 would the council want to increase training hours required. Suggested from OHS is completion of 30 supervised course hours prior to becoming a temporary licensee.
3. Suggestion from OHS: increase standards for supervisors with verifiable reports from trainees.
4. In accordance with ORS 694.065, the agency can approve two-year programs or certifications which meet the training or experience requirement – however, the agency **cannot require** the two-year degree or certification.
5. Two-year equivalency requirements which may be national certification or a piecemeal education.

MOTION:

Frink made a motion with a second by Kocer to hold the education committee meeting at 9 am on April 8, 2010.

○ **Hearing Aid Dispensers Advertising as Audiologist Correspondence from Sandy Leybold, Executive Director, Oregon Board of Examiners for Speech-Language Pathology & Audiology**

Plapinger stated he assured Sandy Leybold that the Advisory Council for Hearing Aids takes the problem of false advertising very seriously and if someone knows of an instance of misrepresentation then a complaint needs to be filed with OHLA.

Kocer stated that the hearing aid specialist industry discourages anyone within the profession from purporting themselves to be an audiologist unless licensed as an audiologist.

Frink stated the audiologist board has cited persons misrepresenting themselves as audiologist and he has noticed issues whenever the new business directory comes out. Frink also noted that an audiologist has to be working a certain number of hours on staff in order for a center to claim that they have an audiologist.

Everitt stated that the agency will draft a letter to Sandy Leybold.

MOTION:

Frink made a motion encouraging the Oregon Board of Examiners for Speech-Language Pathology & Audiology to share information and make this council aware of incidents of false advertising of an audiologist so the agency can act upon it. Kocer seconded the motion. The motion passed unanimously.

MOTION:

Kocer made a motion for a notification to be created and sent out with the renewal notices to hearing aid specialists that misrepresenting themselves as audiologists will be severely dealt with by the Advisory Council on Hearing Aids. A second was made by Frink. The motion passed unanimously.

The meeting adjourned at approximately 4:29 pm.

Prepared by: Sinnamon Harris, Board Specialist