



Hearing Aid Dispenser Committee Meeting Minutes

January 10, 2013
Kensington Park Hotel
450 Post Street
San Francisco, CA
(916) 263-2666

Committee Members Present

Alison Grimes, Au.D., Vice Chairperson
Amnon Shalev, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Rodney Diaz, M.D.

Board Members Present

Monty Martin, M.A.
Marcia Raggio, Ph.D.
Patti Solomon-Rice, Ph.D.
Jaime Lee, Esq.

Guests Present

Dennis Van Vleit, Audiologist
Jody Winzelberg, Audiologist, Lucile Packard Children's Hospital
Tricia Hunter, HHP
Cindy Peffers, Hearing Aid Dispenser HHP

Staff Present

Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel

Committee Members Absent

Marcia Raggio, Ph.D.

I. Call to Order

Chairperson Manning called the meeting to order at 3:55 p.m.

II. Introductions

Those present introduced themselves.

III. Approval of the July 26, 2012 Hearing Aid Dispensers Committee Meeting Minutes

The Committee reviewed the meeting minutes and provided technical edits.

M/S/C: Diaz/Grimes

The Committee voted to approve the July 26, 2012 minutes as amended.

IV. Review Committee Member’s Comments to Proposed Amendments Regarding the Hearing Aid Dispenser’s Advertising Regulations and Related Guidelines (California Code of Regulations Section 1399.127)

Chairperson Manning referenced the proposed text for amending the existing advertising regulations and the comments of each of the Committee members as included in the meeting materials. He stated that the proposed text was developed by Ms. Yazigi at the direction and input of the Committee from prior meetings.

Ms. Del Mugnaio stated that the purpose of the proposed amendments is to provide clarity to the advertising provisions so that providers are aware and may practically comply with statutory and regulatory provisions related to false and misleading advertisements and statements as represented by licensed providers.

The Committee discussed the challenges in regulating advertisements that may be circulated by a corporation and not an individual licensee.

Ms. Grimes inquired whether the proposed language regarding advertising a “hearing test” and the statement that a “*hearing test*” is not a *diagnostic hearing evaluation* is already in law or regulation.

Chairperson Manning stated that the current provisions provide a definition of a “hearing test” as test for the purposes of fitting and selecting a hearing aid; it does not state what a “hearing test” is not.

Ms. Winzelberg commented that the Committee should consider which provisions in the hearing aid advertising regulations applies to hearing aid dispensers and dispensing audiologists as not all of the provisions should apply to dispensing audiologists given the scope of practice distinctions.

Ms. Del Mugnaio stated that all the provisions regarding advertisements for a hearing aid applies to anyone who is licensed and authorized to dispense a hearing aid. If the provisions do not apply to a specific license type based on their authorized scope of practice, e.g., a licensed dispensing audiologist or physician, the provision would not be enforced. She stated that language may be added to the advertising provisions to state, *the following provisions apply to any person licensed or authorized to dispense hearing aids, unless the provision conflicts with another law or regulation authorizing such practices.*

Ms. Yazigi stated that the proposed advertising provisions would apply to, and be enforced in situations where the advertisement is published on behalf of the licensee or where the licensee has control or input into the advertisements. She stated that it would be unfair to hold a licensee accountable for advertisements that were developed and published by a manufacturer or corporation where the licensee has no culpability in terms of the advertisement.

The Committee reviewed each section of the proposed text as follows:

- Licensees may not advertise anything that is in conflict with advertising statutes or the laws and regulations that govern the practice of hearing aid dispensing.
- The name, address, and license number of a licensed dispenser must be listed on an advertisement. The Committee deferred making a decision on this provision and delegated to Ms. Del Mugnaio to research the advertising provisions of Dispensing Opticians
- Advertisements of a degree and field. If using the term “Dr.” for a non-medical degree, the degree must be accompanied by a qualifier.
- Advertising a professional certification. The certification must be issued based upon an validated examination. The full name of the certification must be included along with the name of the certifying organization.
- Restricting misleading statements regarding marketing efforts described as “research projects.”
- Must use the term hearing aid dispenser if using the term “specialist.”
- Advertisements regarding hearing aid pricing and discounts must: be exact and include pertinent variables to advertised price. If representing a price comparison, the comparison must be based on verifiable data. The data must be retained by the hearing aid dispenser for one-year from the date of advertisement. If a discount pertains to a specific population, the population must be identified. If a discounted price is for a limited time, the dates must be identified.
- Prohibits bait and switch.
- All advertisements published in California shall comply with all applicable state and federal laws and regulations.

Ms. Del Mugnaio stated that she will research the provisions for dispensing optometrists and bring the information back to the Committee for further review.

V. Update Regarding the Exemption Request of the Federal Drug Administration on Mail Order and Catalog Sales of Hearing Aids (Business & Professions Code Section 2539.2)

Ms. Del Mugnaio reported that she has been in contact with the Federal Drug Administration (FDA) regarding the Board’s exemption request and has been referred to the FDA legal counsel, who should be in contact with her by late January. Ms. Del Mugnaio stated that she will provide an update to the Board as to her communication with the FDA.

Chairperson Manning adjourned the meeting at 5:30 p.m.