



**Department
of State**

**2016 ANNUAL REPORT:
ADMINISTRATION OF THE HEARING AID DISPENSERS ACT**

*PURSUANT TO SUBDIVISION 7 OF SECTION 803 OF THE GENERAL
BUSINESS LAW*

**FOR SUBMISSION TO THE:
GOVERNOR
TEMPORARY PRESIDENT OF THE SENATE
SPEAKER OF THE ASSEMBLY
MINORITY LEADER OF THE SENATE
MINORITY LEADER OF THE ASSEMBLY
CHAIR OF THE SENATE FINANCE COMMITTEE &
CHAIR OF THE ASSEMBLY WAYS & MEANS COMMITTEE**

January 30, 2017

**Andrew M. Cuomo
Governor**

**Rossana Rosado
Secretary of State**

INTRODUCTION

In compliance with subdivision 7 of section 803 of the General Business Law (the “GBL”), the Department of State (the “Department”) respectfully submits the following report regarding its regulation of hearing aid dispensers. This report covers the period from January 1, 2016 through December 31, 2016.

Article 37-A of the GBL grants the Department the authority to issue licenses to qualified hearing aid dispensers and hearing aid dispenser businesses. A “hearing aid dispenser” is defined by the statute as: “any person twenty-one years of age or older or an audiologist licensed under Article 159 of the Education Law who is engaged in the dispensing of hearing aids.” A “business” is defined as: “any individual, partnership, trust, association, organization or corporation.” In 2016, the Department issued 1,180 hearing aid dispenser licenses (334 new and 846 renewals) and 548 hearing aid dispenser business licenses (112 new and 436 renewals).

Subdivision 3 of section 791 of the GBL requires that the Hearing Aid Dispensing Advisory Board (the “Board”) meet at least four times annually. In 2016, the Board met on March 16, June 22, September 28, and December 19.

COMPLIANCE WITH ARTICLE 37-A OF THE GENERAL BUSINESS LAW

Article 37-A requires the Department to: 1) assure the competency and trustworthiness of licensees; and 2) educate the public as to their rights and the recourses available when confronted with incompetent or untrustworthy licensees.

The Department reviews and revises the training curriculum and continuing education content, and updates the hearing aid dispenser licensing examination to assure consistency with psychometric standards as needed. The Department also has the authority to audit licensees to ensure that they meet the mandatory number of continuing education hours set forth in statute.

All complaints are promptly investigated, and, if warranted, disciplinary proceedings are initiated. The Department also assists consumers in resolving disputes with licensees through mediation.

Further, the Department prepares and distributes educational information to licensed hearing aid dispensers concerning the general use of hearing aids and assistive listening devices as well as consumers’ rights. This can include offering guidance to the public regarding licensing issues via the Department’s hotline and website.

RECOMMENDATIONS OF THE HEARING AID DISPENSING ADVISORY BOARD

As of December 31, 2016, the Board consists of the voting members and vacancies contained in the chart below.

NAME	APPOINTING AUTHORITY
Anthony Macera	Governor
Ana Hae-Ok	Governor
Anne Orsene	Governor
Kathleen Cassidy	Governor
<i>Vacancy</i>	Governor
<i>Vacancy</i>	Governor
<i>Vacancy</i>	Governor
Peter Fisher	Temporary President of Senate
<i>Vacancy</i>	Temporary President of Senate
Florence Butler	Speaker of the Assembly
<i>Vacancy</i>	Speaker of the Assembly
<i>Vacancy</i>	Senate Minority Leader
Sally Atkins	Assembly Minority Leader

During 2016, the Board’s Education and Examination Subcommittee worked closely with the Department to update the NYS licensing curriculum and examination. The Department worked closely with the Board on how to better educate consumers regarding assisted learning technology. The Department is currently working to implement the following two Board recommendations:

- ▶ Improving reciprocity standards for qualified applicants with experience or education received outside of New York; and
- ▶ Educating consumers on the benefits of tele-coil and assisted learning technology.

COMPLAINT RESOLUTION AND ENFORCEMENT

The Department received ten complaints against hearing aid dispensers in 2016. One complaint was closed as the result of a previously submitted duplicate complaint and two others were referred to the NYS Department of Education for possible discipline against a licensed audiologist. The seven remaining complaints are pending possible disciplinary action by the Department. One alleges fraud in the selling of a hearing aid, one alleges unlicensed activity, two allege that the dispenser failed to honor a return request as required by subdivision 12 of section 798 of the GBL, two allege that the dispenser failed to make adequate and appropriate adjustments to the hearing device, and one alleges that the dispenser refused to accept an audiograph test, thereby preventing the consumer from ordering a hearing aid.

Of the eight complaints referenced in the Department’s 2015 Report (filed January 31, 2016), one was closed insofar as its subject matter did not fall within the enforcement authority of the Department, one was closed due to a lack of substantial evidence of a violation, two were closed with a letter of instruction, one was withdrawn by the consumer, and three are either scheduled for hearing or on appeal.

RECOMMENDATIONS TO AMEND ARTICLE 37-A

The Department makes no recommendations regarding potential changes to the statute at this time.