



**Department
of State**

**2015 ANNUAL REPORT:
ADMINISTRATION OF THE HEARING AID DISPENSERS ACT**

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

FOR SUBMISSION TO:

**TEMPORARY PRESIDENT OF THE SENATE JOHN J. FLANAGAN
SPEAKER OF THE ASSEMBLY CARL E. HEASTIE
MINORITY LEADER OF THE SENATE ANDREA STEWART-COUSINS
MINORITY LEADER OF THE ASSEMBLY BRIAN M. KOLB
CHAIR OF THE SENATE FINANCE COMMITTEE CATHARINE YOUNG
CHAIR OF THE ASSEMBLY WAYS & MEANS COMMITTEE HERMAN D. FARRELL, JR.**

February 5, 2016

**Andrew M. Cuomo
Governor**

**Cesar A. Perales
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 this report regarding its regulation of hearing aid dispensers. This report covers the period from January 1, 2015 through December 31, 2015.

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 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 2015, the Department issued 592 hearing aid dispenser licenses (274 new and 318 renewals) and 338 hearing aid dispenser business licenses (100 new and 238 renewals).

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 periodically reviews and revises the training curriculum and continuing education content relevant to these licensees. The Department also updates the hearing aid dispenser licensing examination on an as-needed basis using psychometric standards. With regard to continuing education, the Department has the authority to audit licensees to ensure they meet the mandatory number of continuing education hours set forth in statute. Subdivision 1 of section 794 of the General Business Law requires that each licensee must successfully complete 20 hours of continuing education through a course or courses approved by the Secretary of State during each two-year license term.

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

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 includes offering guidance to the public regarding licensing issues via the Department’s telephone hotline and website.

RECOMMENDATIONS OF THE HEARING AID DISPENSING ADVISORY BOARD

As of December 31, 2015, the Hearing Aid Dispensing Advisory Board (the “Board”) consisted of the voting members and vacancies contained in the chart on the next page. An active search to identify new potential Board members is in progress.

During 2015, the Board’s Education and Examination Subcommittee worked closely with the Department to update the NYS licensing examination. Further, the Department implemented the Board’s recommendation to broadcast meetings via web-conference. We are currently working to implement the following Board recommendations:

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

NAME	APPOINTING AUTHORITY
Cesar Perales	<i>Ex Officio – Secretary of State</i>
MaryEllen Elia	<i>Ex Officio – Commissioner of Education</i>
Howard Zucker	<i>Ex Officio – Commissioner of Health</i>
Eric Schneiderman	<i>Ex Officio – Attorney General</i>
Anthony Macera	Governor
Ana Hae-Ok Kim	Governor
Shawn Newlands	Governor
Annette Orsene	Governor
Kathleen Cassidy	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

COMPLAINT RESOLUTION AND ENFORCEMENT

The Department received eight (8) complaints against hearing aid dispensers in 2015. One complaint has been closed insofar as its subject matter did not fall within the enforcement authority of the Department. Of the remaining seven (7) cases, two (2) allege that the licensee has a criminal conviction and should be disqualified for licensure; three (3) allege improprieties surrounding the cost, refund, and repair of hearing aids; one (1) alleges that a licensed physician is dispensing hearing aids for a profit, in violation of law; and one (1) alleges that a hearing aid dispenser, who is also an approved instructor, is improperly administering the license examination.

Of the two complaints filed in 2014, one (1) has been referred for hearing before an administrative law judge to determine if discipline is warranted. The other was closed, following an investigation, with a finding of no violation.

RECOMMENDATIONS TO AMEND ARTICLE 37-A

The Department does not recommend any legislative changes to the statute.