



STATE COMMITTEE OF EXAMINERS
FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

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SG

RO-59

March 22, 1991

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The Honorable Dan Morales
Attorney General of Texas
Supreme Court Building
Austin, Texas 78711

Opinion Committee

Dear General Morales:

The purpose of this letter is to request an opinion from your office on an issue which has arisen under V.A.C.S., Article 4512j relating to the licensing and regulation of audiologists and Article 4566-1.01 et. seq. relating to the licensing and regulation of hearing aid fitters and dispensers. The State Committee of Examiners for Speech-Language Pathology and Audiology met on March 15, 1991, and approved the filing of this request for an opinion.

The issue is whether audiology students at a college or university are required to obtain a temporary training permit from the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids in order to make ear impressions or earmolds.

At the February 25, 1989, meeting of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids, a motion was passed that required "that students as a part of an academic curriculum at an accredited institution of higher learning, who are making ear impressions to be used as part of a hearing aid, must have a temporary permit" issued by the board. It is the committee's position that an audiology student who makes ear impressions or earmolds as part of the student's academic training at a college or university is not required to obtain a temporary permit from the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

Article 4512j, V.A.C.S., addresses the licensing of audiologists. The "practice of audiology" includes any practices that are necessary for the evaluation of hearing, for training in the use of amplification including hearing aids or for the making of earmolds for hearing aids. Students who are working towards a degree in audiology and who meet certain requirements are exempted from the licensing requirements of Article 4512j by Section 9(d).

It is the committee's understanding that the board's position is that if an audiology student makes ear impressions or earmolds as part of the student's curriculum at a college or university and if the college or university then sells the impression or earmold (such that the impression or earmold will become a component part of a hearing aid to be subsequently purchased from a licensed fitter and dispenser), the student must be permitted by the board.

Article 4566-1.19 provides certain exceptions to the application of the law relating to fitters and dispensers. Paragraph (1) exempts "persons engaged in

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the practice of measuring human hearing as a part of the academic curriculum of an accredited institution of higher learning provided such persons or their employees do not sell hearing aids". It is the committee's position that this paragraph exempts students (the "person") and the student's employees (of which there are none) because the students are not selling hearing aids. The students are simply making the earmold or ear impression and the university or the university's employees are selling the earmold or impression. It follows from this paragraph that no temporary permit would be required for audiology students.

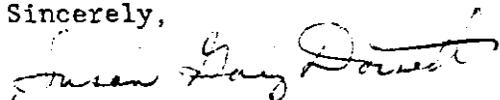
In addition the exception in paragraph (3) of Article 4566-1.19 may apply to some audiology students who have a master's degree in audiology but are working towards a doctorate degree. Such individuals would be exempted unless the "individual" sells hearing aids, i.e. the earmold or ear impression. In the present case the audiology student (the "individual" under paragraph (3)) does not sell the hearing aid. Since such students would be exempt from the state law relating to fitters and dispensers, there is no requirement that such students must have a temporary permit from the board.

The board's rule at 22 Texas Administrative Code, Section 141.18 recognizes that an individual may take the examination for a license to fit and dispense hearing aids without first obtaining a temporary training permit. A temporary training permit is only appropriate if the person is fitting and dispensing hearing aids and is not exempt or excepted from the state law relating to fitting and dispensing hearing aids.

The committee agrees that once an individual has obtained a temporary permit, the person will be required to follow the rules at 22 Texas Administrative Code, Section 141.35; however, if an audiology student does not obtain a temporary permit because the student is not legally required to do so, the audiology student may take the hearing aid fitters and dispensers' examination. At 22 Texas Administrative Code Section 141.36 the requirements for licensure are set out and include a practicum of 150 clock hours of supervised experience. The rule does not say that the 150 clock hours must be done under a temporary training permit if the individual, the audiology student, is already exempt from state law.

On behalf of the committee, I hereby request that you review this information and issue an opinion on this matter. If you require any further information, please contact Linda Wiegman, Attorney, Office of General Counsel, Texas Department of Health at (512) 458-7236.

Sincerely,



Susan Gay Dorsett
Chair

cc: Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Enclosed