



Board of Hearing and Speech

November 28, 2022

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Board Members Present:

Ray Parker, Chair, Public Member
Nichole Kingham Furness, Vice-chair, Audiologist
Connie Furry, Hearing Aid Specialist
Brenda Litke, Hearing Aid Specialist
Amberkiah Pomeroy, Audiologist
Sonja Bradford, Speech-Language Pathologist
Brian Shute, Speech-Language Pathologist
Kelly Siebecke, Licensed Speech-Language Pathology Assistant
David Horn, Licensed Medical Physician

Board Members Absent:

Paula Benson, Public Member
Harry Parent, Public Member

Staff Members Present:

Jennifer Santiago, Executive Director
Kim-Boi Shaddock, Program Manager
Luke Eaton, Assistant Attorney General
Kristi Knieps, Assistant Attorney General
Madissen Schatz, Administrative Assistant

OPEN SESSION:

12:00 p.m. Open Session – Ray Parker, Chair, Public Member

Ms. Shadduck called the meeting to order at 12:00 p.m.

1. Call to Order – Ray Parker, Chair, Public Member

1.1 Members of the board, staff, and guests introduced themselves.

1.2 Ms. Furry moved that the board have the special meeting by webinar. The motion was seconded and adopted.

1.3 Dr. Pomeroy moved to approve the agenda. The motion was seconded and adopted.

2. Proposed FDA Rules on Over the Counter (OTC) Hearing Aids – Ray Parker, Chair, Public Member

The board reviewed a draft policy statement regarding the Food and Drug Administration’s (FDA) final rule establishing over-the-counter hearing aids.

The new federal rule does not include an examination or waiver requirement for the OTC category of hearing aids. States may still require that prescription hearing aids be ordered by physicians (medical doctors) or audiologists, which may involve a medical or audiological evaluation of the prospective user, including someone is 18 years or older.

[WAC 246-828-100 \(4a\)](#) requires that the hearing aid specialist or audiologist afford the prospective patient or client an opportunity to waive the medical evaluation requirements by signing the following statement, “I have been advised by (hearing aid specialist or audiologist name) the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing instrument.” The board intends to modify this Washington Administrative Code (WAC) to be consistent with the FDA rules.

Ms. Knieps suggested stating that the board is aware of the FDA change of the federal rules and is engaging in the rulemaking process. The board will take this into consideration before taking disciplinary action.

Mr. Eaton suggested that the board consider if the provider is acting in good faith and trying to follow to the rules. The board does not intend to be overly legalistic and apply one set of standards. Providers are encouraged to seek guidance from their own legal counsel and insurance provider. Mr. Eaton suggested against a blanket statement stating the board will not take disciplinary action against audiologists and hearing aid specialists regarding medical waivers.

Megan Carter, audiologist, Better Hearing Clinic, recommended repealing WAC 246-828-100 (4a).

Melissa Johnson, JD, lobbyist, Washington State Academy of Audiology (WSAA), urged the board to ensure that WSAA members have clear guidance during the period of conflict between the WAC and FDA rule.

The board modified the draft policy statement.

Dr. Kingham moved that the board approve the OTC policy statement as written. The motion was seconded and adopted.

Ms. Shadduck encouraged the board and members of the public to email comments in advance for the rulemaking workshop at the February business meeting. The CR-101 is currently in the reviewal process.

Adjournment of Open Session

Ms. Shadduck adjourned the meeting at 1:50 p.m.

Submitted by:
Kim-Boi Shadduck, Program Manager
Board of Hearing and Speech

Approved by:
Ray Parker, Chair, Public Member
Board of Hearing and Speech

on file

SIGNATURE

DATE

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