

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:33 p.m. on March 11, 2003, in Room 143-N of the Capitol.

All members were present except Representatives Landwehr, Bethell, Patterson, Storm and Kirk, all of whom were excused.

Committee staff present:

Bill Wolff, Kansas Legislative Research Department
Renaë Jefferies, Kansas Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Marla Rhoden, Director, Health Occupations Credentialing, Bureau of Health Facilities, Kansas Department of Health and Environment
Allan White, President, Kansas Speech-Language-Hearing Association
Julie Hein, Kansas Hearing Aid Association

Others attending: None listed.

The minutes for the March 10 meeting were unanimously approved.

Jointly chairing the meeting, Representative DeCastro and Representative Svaty opened the hearing on **SB 199**. Chairperson DeCastro welcomed Marla Rhoden, Director, Health Occupations Credentialing, Bureau of Health Facilities, Kansas Department of Health and Environment, who spoke in support of the bill, noting that as the licensing agency for speech-language audiologists, KDHE recognizes the need for the bill. (Attachment 1)

Chairperson Svaty welcomed Allan White, President, Kansas Speech-Language-Hearing Association, who spoke in support of the bill. (Attachment 2) He explained that the bill is needed because audiologists, who for years have been making ear-molds for public school students, have done so thinking they were exempt from being licensed by the Board of Examiners for Fitting and Dispensing Hearing Aids, since they only created ear molds, but did not sell hearing aids or charge a fee for their services, and thus did not encroach on businesses doing so. However, he said a recent Attorney General's opinion stated that the current law is vague on such exemptions; therefore school audiologists requested clarification in the law, a clarification accomplished by **SB 199**. He suggested lines 21-22 be deleted, since they were an inadvertent duplicate of lines 27-28.

Responding to a member's question, Mr. White demonstrated the FM radio transmitters and receivers that enable hearing-impaired school children to hear, a part of the system being the ear-piece created from a mold made by school audiologists. He noted that presently audiologists did not compete with existing businesses, but if they were required to obtain another license to make ear molds, the result might encroach on existing hearing aid businesses. Answering another question, he said a licensed audiologist

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on March 11, 2003 in Room 143-N of the Capitol.

must have a minimum of a Master's Degree, whereas a person who dispenses hearing aids needs only a high school diploma. He said that after the Attorney General's opinion, school audiologists ceased making ear molds, but resuming the practice after a hiatus would not diminish an audiologist's skill.

Julie Hein, representing the Kansas Hearing Aid Association, a professional association for licensing hearing aid dispensers, testified in support of the bill, saying that all interested parties had worked together on the language and intent of the bill. She urged members to be cautious in making any changes to the wording of the bill. (Attachment 3)

The hearing on **SB 199** was closed.

Chairman Morrison announced that if time allowed, the bill would be worked at the next meeting, Wednesday, March 12. The meeting was adjourned at 2:06 p.m.

K A N S A S

RODERICK L. BREMBY, SECRETARY KATHLEEN SEBELIUS, GOVERNOR
DEPARTMENT OF HEALTH AND ENVIRONMENT

Senate Bill No. 199

to the
House Committee on Health and Human Services

by
Marla Rhoden, Director, Health Occupations Credentialing
March 11, 2003

Chairperson Morrison, I pleased to appear before the House Committee on Health and Human Services to discuss Senate Bill 199. The Kansas Department of Health and Environment bears responsibility for the administration of K.S.A. 65-6501 *et seq.*, the licensure law for speech-language pathologists and audiologists. This proposed legislation amends K.S.A. 74-5810 related to functions of the Board of Hearing Aid Examiners in Fitting and Dispensing of Hearing Aids, to include an exemption from the licensing requirement for licensed audiologists to also hold a license as a hearing aid dispenser when employed by a publicly funded school district, a special education cooperative or an education service center while serving preschool through high school age students as long as such organization does not sell hearing aids or accessories and the individual performing the fitting of the hearing aids does not charge a fee for fitting services. The bill further provides that KDHE shall consult with the Board regarding complaints filed against audiologists regarding conduct covered by this act.

In May 2002 the Office of the Attorney General issued an opinion that making or taking an earmold impression for the purpose of fitting or adapting a hearing aid is within the purview of a licensed hearing aid dispenser and that licensed audiologists would also be required to hold a license as a hearing aid dispenser to legally perform that function. This proposed legislation would exempt licensed audiologists in public school settings from the requirement to hold a license as a hearing aid dispenser to fit and/or adjust hearing aids for students in public schools. The Speech-Language Pathology and Audiology Advisory Board, which serves in an advisory capacity to KDHE as the licensing agency for audiologists, supports the passage of Senate Bill 199.

Thank you again for the opportunity to comment on Senate Bill No. 199. I would gladly respond to any questions you may have.

Attachment 1
HHS 3-11-03

TESTIMONY BY ALLAN WHITE, AUDIOLOGIST
PRESIDENT, KANSAS SPEECH-LANGUAGE-HEARING ASSOCIATION
BEFORE THE
HEALTH AND HUMAN SERVICES COMMITTEE
SB 199
March 11, 2003

Mr. Chair, members of the committee. I am Allan White, President of the Kansas Speech-Language-Hearing Association and I appear today to provide testimony in support of Senate Bill 199. The issue for the Kansas Speech-Language-Hearing Association and the educational audiology members is clarifying who is "specifically exempted" from the licensing requirements stated in K.S.A. 74-5810.

Kansas Attorney General Opinion No. 2002-23.

Synopsis:

Making or taking an earmold impression for the purpose of fitting or adapting a hearing aid is within the purview of a licensed hearing aid dispenser. A licensed audiologist is not authorized to make an earmold impression for the purpose of fitting or adapting a hearing aid unless also licensed as a hearing aid dispenser or specifically exempted from those licensing requirements. Cited herein: K.S.A. 2001 Supp. 65-6501; K.S.A. 65-6504; 74-7807; 74-5810.

The suggested language for K.S.A. 74-5810 is:

- (2) a licensed audiologist employed by a publicly funded school district, a special education cooperative or an education service center while serving preschool through high school age students, provided, such organization does not sell hearing aids or accessories thereto and such person performing and fitting in this section does not specifically charge the person fitted a fee for such services.

Presently, the majority of licensed audiologists working for school districts and educational cooperatives do not hold the additional hearing aid dispensing license since their primary employment is with a not for profit, tax supported entity. It is the desire of the school districts and educational cooperatives in Kansas who employ licensed audiologists to once again be able to make earmolds. An earmold is a necessary part of a student's hearing aid or amplification system. When a child is without an earmold, he is without the use of his hearing aid, which is necessary to academic success and optimum communication with others. If amplification is specified in a student's Individual Education Plan (IEP), the district must ensure a functioning hearing device, which is the job of the educational audiologist.

School districts and the licensed audiologists they employ are not selling hearing aids nor do they desire to start this activity. The children using amplification in the schools have obtained their hearing aids from licensed hearing aid dispensers. Educational audiologists strive to work collaboratively with the dispensers to ensure a student's amplification needs are met. Educational audiologists are not selling anything, so there should be no "consumer issues" to address. There have been no instances where "harm" has occurred. Making earmold impressions is within the scope of practice of an audiologist (American Speech and Hearing Association Scope of Practice Statement, 1995). The convenience of getting earmolds made for students in their home schools is valuable. The need and expense to transport students, especially in rural areas, is eliminated.

Attachment 2
HHS 3-11-03

The suggested language in Senate Bill 199 clarifies what is currently confusing statutory language. Licensed audiologists in the schools are seeking clarification in the statutory language so they can better provide services to the hearing aid wearing students they serve within their primary employment setting. We would, however, like to offer a minor amendment to strike new language in lines 21 and 22. This new language impacts current law as it relates to higher education and charitable organizations. This amendment would correct the error in the language.

The members of the Kansas Speech-Language-Hearing Association would appreciate your support for Senate Bill 199. Thank you.

SENATE BILL No. 199

By Committee on Public Health and Welfare

2-11

PROPOSED AMENDMENT
John Peterson
Kansas Speech, Language & Hearing Assn

2-3

9 AN ACT concerning the fitting and dispensing of hearing aids; amending
10 K.S.A. 74-5810 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 74-5810 is hereby amended to read as follows: 74-
14 5810. (a) This act shall not apply to:

15 (1) A person while ~~he~~ *such person* is engaged in the practice of fitting
16 hearing aids if ~~his~~ *such person's* practice is part of the academic curric-
17 ulum of an accredited institution of higher education or part of a program
18 conducted by a public, charitable institution or nonprofit organization,
19 which is primarily supported by voluntary contributions: ~~Provided, This~~
20 *so long as such organization does not sell hearing aids or accessories*
21 *thereto* ~~and such person performing the fitting does not specifically charge~~
22 ~~the person fitted a fee for such services; or~~

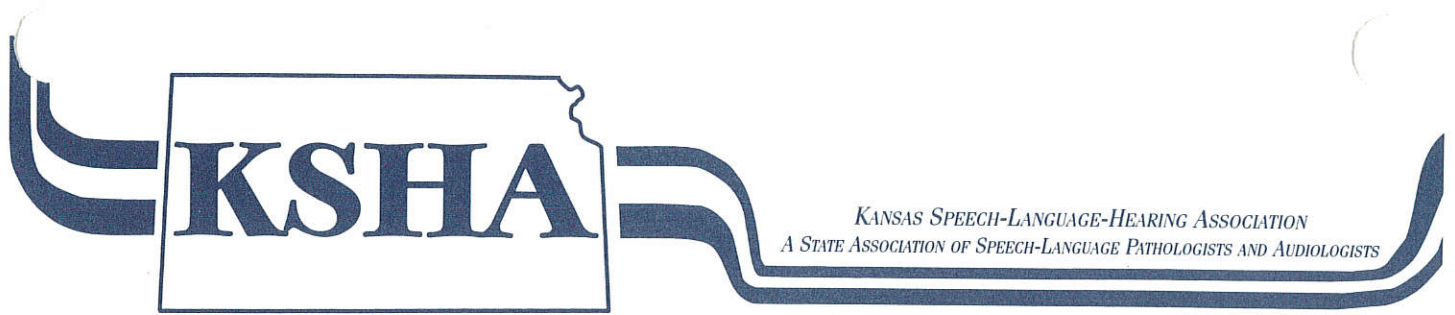
23 (2) *a licensed audiologist employed by a publicly funded school dis-*
24 *trict, a special education cooperative or an education service center while*
25 *servng preschool through, high school age students so long as such or-*
26 *ganization does not sell hearing aids or accessories thereto and such per-*
27 *son performing the fitting in this section does not specifically charge the*
28 *person fitted a fee for such services.*

29 (b) *If a person exempt from this act pursuant to subsection (a) is a*
30 *licensee of another state agency and a complaint is filed against such*
31 *person with such agency regarding conduct covered by this act, such*
32 *agency shall consult with the Kansas board of examiners in fitting and*
33 *dispensing of hearing aids regarding such complaint.*

34 (c) This act shall not be construed to prevent or limit any person who
35 is a practitioner of the healing arts licensed by the state board of healing
36 arts in treatment of any kind or in fitting hearing aids to the human ear.

37 Sec. 2. K.S.A. 74-5810 is hereby repealed.

38 Sec. 3. This act shall take effect and be in force from and after its
39 publication in the statute book.



3900 SEVENTEENTH, GREAT BEND, KS 67530
620/793-6550 800/248-KSHA FAX: 620/793-6550
E-MAIL: KSHA96@AOL.COM WWW.KSHA.ORG

KANSAS SPEECH-LANGUAGE-HEARING ASSOCIATION
A STATE ASSOCIATION OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

ADVOCATES FOR PEOPLE WITH COMMUNICATION DISABILITIES

March 6, 2003

Representative Jim Morrison
171-W

As the 2003 legislative session nears an end, Kansans are keenly aware of the difficult decisions that lie ahead for you. Members of the Kansas Speech-Language-Hearing Association (KSHA) are in Topeka today to share our views on issues that are important to our eleven hundred member association of Speech-Language Pathologists and Audiologists and the tens of thousands of people with communication disabilities we serve. We have attached a statement with our legislative positions. We hope this information is helpful in guiding your decisions.

KSHA recognizes that Kansas like every other state is facing a real fiscal crisis. How the Legislature responds to these difficult budget issues will effect all of us. Funding for K-12 education and special education will effect all who are working in the public schools as well as those who have children and grandchildren attending Kansas public schools. Funding for our universities will impact both the faculty whose salaries are not keeping pace with peer universities and their students who stand to pay dramatically higher tuition and fees. SRS medicaid reimbursement will continue to impact our members working in long term care and audiologists dispensing hearing aids.

We are in the communication business. We are in Topeka today communicating our concerns with you. We applaud your past legislative efforts to assist us in early identification of hearing loss through the universal newborn hearing screening. Hopefully, in the future some of the financial hurdles that often delay children from getting the hearing aids they need can be removed.

We are leaving a list of our legislative positions. Your consideration of our positions is appreciated. We trust you will make the best decisions possible for the people of Kansas. We ask that you keep all options open as you deal with the budget issues.

Thank you on behalf of the Kansas Speech-Language-Hearing Association.

KSHA Legislative Issues for the 2003 Session

Special Education and K-12 funding.

A large number of KSHA members work in public schools across the state serving thousands of children with communication disabilities. Adequate funding for K-12 education and special education is extremely important to our members. Significant funding cuts would ultimately result in larger caseloads and reduce the quality of services received by Kansas' school children. KSHA members encourage legislators to avoid funding cuts for K-12 education and special education.

Regents funding.

Many KSHA members are on the faculty of Kansas Regents universities. Likewise, KSHA has over a hundred student members. Quality universities and affordable tuition are important to KSHA members. We encourage legislators to provide adequate funding for higher education. Recruiting and retaining quality professors, especially Ph.D. level professors, is critical to maintaining the quality of the Speech-Language Pathology and Audiology training programs at our state universities. KSHA student members fear dramatic tuition hikes. Many Kansas families are already facing difficult economic times. Significant tuition hikes will make getting a college education unobtainable for many Kansas students.

Medicaid funding

Many low income Kansans depend on Medicaid for speech and language therapy, hearing aids and audiometric evaluations. Adequate funding will ensure that services are available to low income Kansans with communication and hearing disabilities. KSHA supports the Governor's budget that includes restoration of Medicaid funding for adult audiology services.

Children's Trust Fund

KSHA supports preserving the funds in the Children's Trust Fund.

Clarification of Hearing Aid Dispensing Statute (SB 199)

KSA 74-5810 addresses exemptions to the Kansas Board of Hearing Aid Examiners hearing aid dispensing statute. KSHA supports legislation to clarify who is exempt and would like educational audiologists employed by publicly funded school districts, special education cooperatives or service centers included within this exemption clause.

Summary

The Consequences of Untreated Hearing Loss: A Study by the National Council of Aging (1999)

In the largest study of its kind to date, 2304 hearing-impaired individuals and 2090 of their family members responded to a questionnaire regarding quality of life. Approximately half of the hearing-impaired individuals were hearing aid users. Hearing impairments were categorized by their severity: mild to moderate, moderate, moderate to severe, severe, and severe to profound.

Several interesting results were found including:

- **Hearing aid users** were 1/3 less likely to experience sadness or depression for a period of two weeks or more in the past year.
- **Twice as many non-users** of hearing aids with milder losses reported prolonged periods of worry, anxiety and paranoia than those who use hearing aids.
- Hearing aid users with milder losses were 20% more likely to engage regularly in social activities than those who don't use hearing aids. Those hearing aid users with more severe losses were 24% more likely to engage in social activities than non-users.
- **More than half** the hearing aid users and/or family members reported improvements in relationships at home and feelings about themselves and their overall life because of hearing aids, regardless of the severity of the hearing loss.

James Firman, ed. (President, CEO of the NCOA) commented, **“The study debunks the myth that untreated hearing loss in older persons is a harmless condition. It is very said that millions of older people are letting denial or vanity get in the way of treatments that can significantly improve the quality of their lives. Doctors and family members should insist that hearing-impaired seniors seek appropriate treatment.”***

If you are experiencing difficulty hearing, the first step toward addressing the concern is a complete diagnostic hearing evaluation to determine if hearing loss is present, and if so, the type and severity of the loss and possible treatment options, including medical, surgical and amplification options. Talk to your physician if a referral is needed; many health insurance plans will cover a diagnostic evaluation.

Adapted from The Hearing Review Vol. 6 No. 7, July 1999
The study may be accessed at: www.ncoa.org

Provided by the Kansas Speech-Language-Hearing Association. The state professional association of speech-language pathologists and audiologists; advocates for individuals with communication disorders.

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein
Attorney-at-Law
Email: rhein@heinlaw.com

Testimony re: SB 199
House Health and Human Services Committee
Presented by Julie J. Hein
on behalf of
Kansas Hearing Aid Association
March 11, 2003

Mr. Chairman, Members of the Committee:

My name is Julie Hein, and I am a lobbyist for the Kansas Hearing Aid Association. KHAA is the professional association for licensed hearing aid dispensers in the state.

The KHAA supports SB 199. This legislation was proposed by the Kansas Speech Language and Hearing Association, and the proposal for exemption for certain audiologists under certain conditions from the licensure act of hearing aid dispensers is not one that we would have sought on our own. However, KSHA did contact us through their lobbyist, John Peterson, and informed us of the suggested change. We had an opportunity to meet with him on several occasions, to discuss revisions to the proposed language, and, as written, we can support SB 199.

We also contacted the state licensure board, the Kansas Board of Hearing Aid Examiners, to insure that the language changes would not adversely impact their obligation to protect the public. They also gave us some input, and those changes have been incorporated into the legislation which you see before you.

A great deal of time and effort was put into the revisions necessary to make this language change acceptable to KSHA, KHAA, and the licensing board. We are hopeful this legislation will not be subject to substantive amendments, except as noted below, due to the delicate compromise that was worked out between the entities involved.

I understand that John Peterson is offering an amendment to delete the amendatory language on lines 21-22 of the bill, which amends language which has been on the books for years. John's proposed amendment is to correct an error made when John inadvertently gave the wrong version of the bill draft to the revisor. The language that we approved in our discussions with John did not include the amendment on lines 21-22..

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Attachment 3

HHS 3-11-03