



SELF-EVALUATION REPORT

State Committee of Examiners in the
Fitting and Dispensing of Hearing Instruments

Texas Department of State Health Services

**PRESENTED TO THE
SUNSET ADVISORY COMMISSION
SEPTEMBER 2009**

TABLE OF CONTENTS

I.	Agency Contact Information.....	3
II.	Key Functions and Performance.....	4
III.	History and Major Events	9
IV.	Policymaking Structure	11
V.	Funding	15
VI.	Organization	18
VII.	Guide to Agency Programs	20
VIII.	Statutory Authority and Recent Legislation	26
IX.	Policy Issues	28
X.	Other Contacts.....	33
XI.	Additional Information	34

*STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS*

Self-Evaluation Report

I. Agency Contact Information

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Joyce Parsons Executive Director	PO Box 149347 Mail Code 1982 Austin TX 78714-9347	(512) 834-6780 (512) 834-6677 fax	joyce.parsons@ dshs.state.tx.us
Committee President	Kenneth Haesly	1708 W. 24 th Street Houston TX 77008	(713) 869-4700 (713) 869-3578 fax	kenhaesly@ hotmail.com
Agency's Sunset Liaison	Stephen Mills	PO Box 149347 Mail Code 1982 Austin TX 78714-9347	(512) 834-4526 (512) 834-6677 fax	stephen.mills@ dshs.state.tx.us

II. Key Functions and Performance

A. Provide an overview of your agency's mission, objectives, and key functions.

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) is the licensing and regulatory authority for hearing instrument fitters and dispensers in Texas. The committee's primary mission is to enforce licensure rules and standards for hearing instrument fitters and dispensers as a means to protect and promote public health and welfare. The committee accomplishes its mission within the parameters established by Texas Occupations Code, Chapter 402. The chapter does not authorize the licensure and regulation of business entities, only individuals who fit and dispense hearing instruments through those entities.

The committee is administratively attached to the Texas Department of State Health Services (DSHS), Professional Licensing and Certification Unit, and does not function as an independent state agency.

A 1993 legislative policy statement (Senate Bill 953, Section 2, 73rd Legislature) established that "it is the policy of this state to (1) safeguard the health and welfare of the communicatively handicapped people of this state from the dispensing of hearing instruments by unskilled or unprincipled practitioners; (2) establish and enforce standards of practitioner competency; (3) provide regulatory authority over practitioners offering hearing instrument dispensing services to the public; and (4) ensure professional ethical conduct in the dispensing of hearing aid devices or instruments."

The committee's mission is to regulate hearing instrument fitters and dispensers in Texas in order to improve and maintain standards for the profession, and to protect the public. The committee accomplishes its mission by establishing and administering qualifications for licensure and license renewal, including development, approval, and administration of examinations, and enforcing standards for the profession.

Key functions, powers, and duties of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments are to:

- Administer, coordinate, and enforce Occupations Code, Chapter 402 (Occupations Code § 402.101(1));
- Issue temporary training permits, apprentice permits, and fitter and dispenser of hearing instrument licenses (Occupations Code §§ 402.207, 402.208, 402.251);
- Administer or arrange for the administration of a licensure examination (Occupations Code §§ 402.104, 402.204);
- Receive and investigate complaints filed by consumers regarding license or permit holders (Occupations Code §§ 402.152 – 402.154, 402.452);
- Adopt rules for the education and training of temporary training permit holders (Occupations Code, § 402.254);
- Adopt rules for the continuing education of a license holder (Occupations Code § 402.303);
- Adopt rules for a 30-day trial period during which a person may cancel the purchase of a hearing instrument (Occupations Code § 402.401);
- Impose disciplinary action and/or assess an administrative penalty against a license holder found to be in violation of the law or rules (Occupations Code § 402.501); and
- Temporarily suspend the license of a license holder whose continued practice constitutes an ongoing and imminent threat to public welfare (Occupations Code § 402.504).

B. Do each of your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Yes. Public health, safety, and welfare considerations lead to the conclusion that persons who fit and dispense hearing instruments should be regulated. This includes the establishment of minimum training requirements, as well as the enforcement of professional standards in the delivery of services. Hearing instrument fitters and dispensers should be required to further develop and maintain their knowledge and skill levels through continuing education.

Since each jurisdictional complaint is potentially a situation in which the consumer's well being is compromised, each complaint should be evaluated thoroughly. When evidence indicates that a violation has occurred, it is in the interest of public safety to initiate disciplinary proceedings against the license holder. Depending on the situation, a range of disciplinary actions may be imposed, up to and including revocation of the person's right to practice in this state.

Public information, provided through the DSHS website, is necessary to inform license holders and the citizens of Texas of the standards for competent and acceptable practice and of the committee's complaint procedures.

If these functions were no longer performed, the lack of regulation in the fitting, dispensing, and sale of hearing instruments could result in hearing impaired consumers in Texas receiving products and services from individuals who lack appropriate training. This could result in potential harm to those consumers. A lack of regulation could also harm hearing impaired consumers financially, as Occupations Code, Chapter 402 sets out important consumer protection mechanisms.

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

The program's workload statistics demonstrate overall effectiveness and efficiency. This includes annual totals of:

- persons permitted for temporary training;
- persons permitted as apprentices;
- persons completing the committee's practical examination;
- persons licensed as fitters/dispensers;
- complaints received;
- jurisdictional complaints resolved; and
- disciplinary actions taken.

Additionally, once the appropriate application materials are on file, permits and licenses are routinely approved, processed, and issued within seven working days.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

In general, the enabling law continues to correctly reflect the mission, objectives, and approach to performing the regulatory functions of the committee. The committee has not recommended changes to the Legislature to improve operations. Some policy issues relating to the enabling law are discussed in Section IX of this report.

E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

No. There is no other state or federal agency that licenses and regulates Texas fitters and dispensers of hearing instruments. Audiologists, who are also authorized to fit and dispense hearing instruments in Texas, are licensed and regulated through the State Board of Examiners for Speech-Language Pathology and Audiology. Physicians, who may also fit and dispense hearing instruments in Texas, are licensed and regulated through the Texas Medical Board.

F. In general, how do other states carry out similar functions?

Other states carry out the functions in a manner similar to Texas. Forty-five states regulate the fitting and dispensing of hearing instruments by persons who are not licensed audiologists (all states regulate audiologists). Of those 45 states, 17 states administratively combine the regulation of fitters/dispensers with the regulation of audiologists, either under an umbrella board structure or an umbrella agency structure. In the remaining 28 states, the regulation of fitters/dispensers and audiologists is administered separately.

G. What key obstacles impair your agency's ability to achieve its objectives?

There are no significant obstacles identified at this time that impair the committee's ability to achieve its objectives. The mission of public protection would, however, be better served if additional investigative personnel and resources were allocated to the DSHS Professional Licensing and Certification Unit, to initiate and complete non-immediate jeopardy investigations more timely. Currently, four investigators are shared among the 23 licensing programs of the Unit, and they completed 448 investigations in fiscal year 2008. In the 81st Legislature, 2009, an exceptional item was approved for additional regulatory capacity at DSHS, but no additional resources were allocated to the Health Care Professionals strategy. (Refer to Question J for more information regarding the Health Care Professionals strategy.)

H. Discuss any changes that could impact your agency's key functions in the future (e.g., changes in federal law or outstanding court cases).

There are no changes anticipated from federal law or court cases that could impact the committee's key functions in the future. The changes enacted to the committee's enabling statute through H. B. 594, 81st Legislature, 2009, which primarily addressed reciprocity and other licensing issues, are not anticipated to significantly impact the committee's functions in the future.

I. What are your agency's biggest opportunities for improvement in the future?

The committee's biggest opportunities for improvement are in three areas: (1) use of automated applications and online delivery mechanisms for licensing services and continuing education; (2) education of new and existing license holders through a jurisprudence examination or training course; and (3) enhanced coordination with the Office of the Attorney General to ensure compliance with Texas law regarding child support.

Implementation of new online license application and renewal functionality that directly communicates with the committee's licensing database (a shared system within the DSHS Division for Regulatory Services) is anticipated over the next 18 months. This self-service online system will have enhanced customization designed to specifically address the needs of the committee's customers while using the Texas ePay platform for e-commerce transactions. While some services have been available for the last four years through the Texas Online portal, those services are shared with other licensing programs and the current system does not communicate directly with the licensing database. The new system will also provide other self-service features, such as change of address.

While the use of online mechanisms for the delivery of continuing education is accepted practice in most licensing programs, the committee's rules limit the continuing education that a licensee may complete through online courses to five hours of the required 20 hours. Additionally, even though the committee has received an application from an organization to become an approved online provider, the application was not approved due to concerns about whether the provider could ensure quality and effectiveness in content delivery. To explore these concerns, the committee president established an online continuing education ad hoc subcommittee.

The committee supports the development of a jurisprudence examination or training course to be required of new license holders, as a means to educate licensees regarding the requirements of the licensure law and rules.

In the near future, the committee expects to approve an interagency agreement with the Office of the Attorney General to identify and exchange information regarding license holders for the purpose of enforcing provisions of the Family Code relating to consequences of failure to pay child support.

J. In the following chart, provide information regarding your agency’s key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is administratively attached to the DSHS Professional Licensing and Certification Unit, and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the committee’s mission and functions. This unique arrangement has implications for much of the information requested in this Self-Evaluation Report.

The committee is funded through the appropriation to DSHS for Strategy D.1.4 (Health Care Professionals). This appropriation funds 25 programs within DSHS. The legislative appropriation is made to DSHS, not to the committee. The General Appropriations Act (GAA) does not contain a line-item appropriation to the committee; in fact, the GAA does not mention the committee. Consequently, there are no specific legislative performance measures associated with the committee. There are performance measures associated with the legislative appropriation to DSHS for the Health Care Professionals strategy; however, that information is not included in this report since it reflects measures and activity for 25 DSHS programs.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 2: Key Performance Measures – Fiscal Year 2008			
Key Performance Measures	FY 2008 Target	FY 2008 Actual Performance	FY 2008 % of Annual Target
N/A (see above)			

III. History and Major Events

1969

S. B. 287, 61st Legislature, which became effective January 1, 1970, created the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids to regulate individuals who fit and dispense hearing instruments in Texas. The bill was codified as Vernon's Annotated Civil Statutes, Article 4566. From 1969 to 1993, the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids functioned as an independent state agency, and was not administratively attached to DSHS or its legacy agencies.

1979

The board was reviewed by the Sunset Advisory Commission. S. B. 604, 66th Legislature, was enacted to implement the Sunset recommendations for improvements to Vernon's Annotated Civil Statutes, Article 4566.

1993

The board was reviewed by the Sunset Advisory Commission. S. B. 953, 73rd Legislature, was enacted to implement the Sunset recommendations for improvements to Vernon's Annotated Civil Statutes, Article 4566. Key provisions of the legislation included the following:

- The name was changed to State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.
- The composition of the committee was changed to increase the number of members who hold fitting and dispensing of hearing instrument licenses and to delete the requirement that one member must be a licensed audiologist.
- The committee was administratively attached to the Texas Department of Health (a DSHS legacy agency).
- The committee's rulemaking authority became subject to approval by the Texas Board of Health.
- Requirements for an apprentice permit were established as part of the licensure process.
- Surety bonding was required for license holders.
- Mandatory continuing education of 20 hours per year was established. Previously, the continuing education requirements were established by board rule.

1999

The committee's enabling statute was re-codified as Occupations Code, Chapter 402.

2003

H. B. 2292, 78th Legislature, was enacted, which reorganized the Health and Human Services enterprise, including reorganization and consolidation activities at TDH. The bill required that all licenses issued by TDH, or any entity attached to TDH, be issued for a term of two years. The committee's program and staff, along with the other regulatory programs housed within TDH's Professional Licensing and Certification Division, were reorganized along functional lines, instead of the programmatic arrangement that had been in place since the division's inception in 1985. The reorganization became effective September 1, 2003.

2004

Texas Department of State Health Services (DSHS) was created as a new agency, a product of the consolidation of TDH, Texas Commission on Alcohol and Drug Abuse, and the mental health programs and services of the Texas Department of Mental Health and Mental Retardation. The committee was organizationally placed within the Division for Regulatory Services, Health Care Quality Section, Professional Licensing and Certification Unit.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 3: Policymaking Body			
Member Name	Members Appointed by Governor for Six Year Terms	Qualification	City
Kenneth Haesly	Term expires 12/31/2011	Professional (Fitter and Dispenser)	Houston
Melissa Rodriguez	Term expires 12/31/2011	Professional (Fitter and Dispenser)	El Paso
Richard Davila	Term expires 12/31/2009	Professional (Fitter and Dispenser)	Lubbock
Rosemary Geraci	Term expires 12/31/2009	Professional (Fitter and Dispenser)	Lufkin
Benjamin Norris	Term expires 12/31/2013	Professional (Fitter and Dispenser)	Waco
Amy Trost	Term expires 12/31/2013	Professional (Fitter and Dispenser)	Seguin
James Leffingwell, M.D.	Term expires 12/31/2013	Professional (Physician)	Arlington
Cindy Steinbart	Term expires 12/31/2009	Public	Round Rock
Robert Gebhardt	Term expires 12/31/2011	Public	Pasadena

B. Describe the primary role and responsibilities of your policymaking body.

Powers and duties of the committee are set out in Occupations Code §§ 402.101 – 402.106. The committee's primary role is to adopt and enforce rules relating to the licensure and regulation of fitters and dispensers of hearing instruments, including review of consumer complaints and discipline of license holders found to be in violation of the law or rules. The committee also writes, maintains, and administers the practical examination for licensure and administers the written examination for licensure.

C. How is the chair selected?

Occupations Code § 402.257 (Officers) requires the committee to elect a president and a vice-president.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

Two unique features distinguish the committee from the other regulatory boards that are administratively attached to the DSHS Professional Licensing and Certification Unit. Occupations Code § 402.102(a) authorizes the committee to adopt procedural rules, subject to the approval of the Texas Board of Health (now the Executive Commissioner of Health and Human Services).

The rulemaking authority of the other regulatory boards that are administratively attached to the DSHS Professional Licensing and Certification Unit is not limited to procedural rules. Additionally, only two other boards are required to obtain the approval of the Executive Commissioner of Health and Human Services after adopting rules.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2008? In FY 2009?

Occupations Code § 402.058(a) requires the committee to hold at least two regular meetings annually. The committee customarily meets three times each fiscal year. The committee met four times in FY 2008 and three times in fiscal year 2009. The additional, special meeting in fiscal year 2008 was held to propose rules relating to licensure by reciprocity.

F. What type of training do members of your agency's policymaking body receive?

Occupations Code § 101.101 requires the Health Professions Council (HPC) to establish a training program for the governing bodies of state agencies that regulate health professions. A new member must complete the program prior to assuming the member's duties. The training curriculum created by HPC was adapted for use with the regulatory boards administratively attached to the DSHS Professional Licensing and Certification Unit.

The training program includes information regarding the enabling legislation; the functions of the licensing program; the role of the program and the committee; the rules of the committee with an emphasis on the rules that relate to disciplinary and investigatory authority; the current costs and revenue for the committee; the requirements of the open meetings law, Chapter 551, Government Code; the requirements of the open records law, Chapter 552, Government Code; the requirements of the administrative procedure law, Chapter 2001, Government Code; the requirements of the conflict of interest laws and other laws relating to public officials; and any applicable ethics policies adopted by the Texas Ethics Commission. Additionally, committee members receive information concerning the committee's unique placement within DSHS and the staffing, structure, and mission of the DSHS Division for Regulatory Services.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

No.

H. What information is regularly presented to your policymaking body to keep them informed

of your agency's performance?

At each regular meeting of the committee, the Executive Director presents information regarding the number and categories of license holders. The Professional Licensing and Certification Unit Manager provides information regarding the committee's annual costs and revenue, legislation impacting the program or the Unit, management initiatives or projects within the Unit or DSHS Regulatory Services, DSHS legislative performance measures, staffing updates, and other information relative to the operation of the Unit and DSHS.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments uses a variety of mechanisms to obtain and incorporate public input. The committee considers obtaining and using public input to be of critical importance in carrying out its duty to protect and promote public health and safety by regulating the practice of hearing instrument fitting and dispensing.

Each committee or subcommittee meeting agenda has a public comment item. Agendas are posted in the *Texas Register* in compliance with the Texas Open Meetings Act. Meeting agendas are provided to stakeholder groups prior to the meeting dates. The committee's stakeholders regularly avail themselves of the opportunity to address the committee and provide input.

The committee's membership structure lends itself to considerable input from the public. Two committee members represent the public, one member is a physician, and six members are licensed fitters/dispensers of hearing instruments.

In the area of rulemaking, the committee notifies stakeholders of rule issues early in the development phase. Stakeholders are encouraged to participate in committee meetings in which rules are drafted, discussed, or approved. The rules are posted in the *Texas Register* for review and comment. Public hearings may also be held during the rule comment period. The committee fully considers all written comments received during the statutory public comment period, as well as oral comments received at a public hearing. Rule proposals and adoptions are posted on the committee's website and regularly updated. In particularly difficult matters of rule development, the committee will consider development of a taskforce to ensure all interested parties are involved in the rulemaking process.

As funds allow, the committee's staff attend statewide conferences relating to hearing instrument fitters and dispensers to receive direct input from the regulated community, to provide information, and to answer questions regarding the committee and its functions.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How Are Members Appointed?	Purpose/Duties	Legal Basis for Committee
Complaints Subcommittee	Four members, one public and three fitter members, are appointed by the committee president.	To consider matters relating to complaints filed against licensees and permit holders and may propose disciplinary action if a violation of the law or the rules is substantiated. The subcommittee may also dismiss matters for no violation, for lack of substantiation of a violation, or for lack of jurisdiction.	Occupations Code § 402.105 22 Texas Administrative Code § 141.3(g)
Examination Subcommittee	Members appointed by committee president. Subcommittee is inactive at this time	To consider matters relating to the licensure examination, including administration and content, and to make recommendations to the committee.	Occupations Code § 402.105 22 Texas Administrative Code § 141.3(g)
Applications Subcommittee	Members appointed by committee president. Subcommittee is inactive at this time	To consider matters relating to license and permit applications referred by the Executive Director and to make recommendations to the committee.	Occupations Code § 402.105 22 Texas Administrative Code § 141.3(g)
Continuing Education Subcommittee	Members appointed by committee president. Subcommittee is inactive at this time	To consider matters relating to the continuing education of licensees and permit holders, including the approval of programs and sponsors, and to make recommendations to the committee.	Occupations Code § 402.105 22 Texas Administrative Code § 141.3(g)
Online Continuing Education Ad Hoc Subcommittee	Members appointed by committee president. Subcommittee is composed of three professional committee members, the Executive Director of Texas Hearing Aid Association, and the President of Audiology Online.	To consider matters relating to online continuing education.	22 Texas Administrative Code § 141.3(g)

V. Funding

A. Provide a brief description of your agency's funding.

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is administratively attached to the DSHS Professional Licensing and Certification Unit, and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the committee's mission and functions. This unique arrangement has implications for much of the information requested in this Self-Evaluation Report.

The committee is funded through the appropriation to DSHS for Strategy D.1.4 (Health Care Professionals). This appropriation funds 25 programs within DSHS. The legislative appropriation is made to DSHS, not to the committee. The General Appropriations Act (GAA) does not contain a line-item appropriation to the committee, in fact, the GAA does not mention the committee. All revenue and expenditures are processed, accounted for, tracked, and audited through the DSHS budget, fiscal, and audit structures.

It is important to note that the committee's fee revenue exceeds the direct and indirect costs of operating the fitting and dispensing of hearing instruments regulatory program.

Due to the absence of a legislative appropriation, the committee is unable to hire staff or expend funds in its own name. Much of the information requested in this Self-Evaluation Report is not available for individual licensing programs. The information is available regarding DSHS in an agency-wide format. Some information requested in Sections V (Funding) and VI (Organization) is available in a format that is specific to the committee, with some necessary modifications, and the modified information is submitted in this report.

B. List all riders that significantly impact your agency's budget.

N/A (see above).

C. Show your agency's expenditures by strategy.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 5: Expenditures by Strategy — Fiscal Year 2008 (Actual)		
Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount
Licensing and regulation of hearing instrument fitters and dispensers	\$80,381	N/A
GRAND TOTAL:	\$80,381	N/A

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2009-2010.

N/A (see above).

E. Show your agency's sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 6: Sources of Revenue — Fiscal Year 2008 (Actual)	
Source	Amount
Licensing fees deposited into General Revenue Fund No. 0001, Revenue Code 356210	\$165,516
TOTAL	\$165,516

F. If you receive funds from multiple federal programs, show the types of federal funding sources.

N/A (see above).

G. If applicable, provide detailed information on fees collected by your agency.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 7: Fee Revenue — Fiscal Year 2008				
Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Licensure Application Fee Occ. Code § 402.106	\$405	79	\$31,995	General Revenue Fund No. 0001, Revenue Code 356210
Temporary Training Permit Application Fee Occ. Code § 402.106	\$205	81	\$16,605	General Revenue Fund No. 0001, Revenue Code 356210

Apprentice Permit Application Fee Occ. Code § 402.106	\$205	70	\$14,350	General Revenue Fund No. 0001, Revenue Code 356210
Examination Fee (Practical retakes) Occ. Code § 402.106	\$250	32	\$8,000	General Revenue Fund No. 0001, Revenue Code 356210
Licensure Renewal Fee Occ. Code § 402.106	\$405	186	\$75,330	General Revenue Fund No. 0001, Revenue Code 356210
Continuing Education Sponsor Fee Occ. Code § 402.106	\$500	28	\$14,000	General Revenue Fund No. 0001, Revenue Code 356210
Licensure Renewal Late Fee (up to 90 days) Occ. Code § 402.106	\$125	9	\$1,125	General Revenue Fund No. 0001, Revenue Code 356210
Licensure Renewal Late Fee (90 days to less than two years) Occ. Code § 402.106	\$250	0	\$0	General Revenue Fund No. 0001, Revenue Code 356210
Duplicate License Fee Occ. Code § 402.106	\$25	33	\$825	General Revenue Fund No. 0001, Revenue Code 356210
Office of Patient Protection Fee Occ. Code § 101.307	\$2-\$5	288	\$882	General Revenue Fund No. 0001, Revenue Code 356210
Texas Online Fee Govt. Code § 2054.252(g)	\$5-\$10	280	\$2395	General Revenue Fund No. 0001, Revenue Code 356210
Child Support Reinstatement Fee Occ. Code § 402.106	\$50	0	\$0	General Revenue Fund No. 0001, Revenue Code 356210
Student Loan Default Reinstatement Fee Occ. Code § 402.106	\$50	0	\$0	General Revenue Fund No. 0001, Revenue Code 356210

VI. Organization

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is administratively attached to the DSHS Professional Licensing and Certification Unit, and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the committee's mission and functions. This unique arrangement has implications for much of the information requested in this Self-Evaluation Report.

The committee is funded through the appropriation to DSHS for Strategy D.1.4 (Health Care Professionals). This appropriation funds 25 programs within DSHS. The legislative appropriation is made to DSHS, not to the committee. The General Appropriations Act (GAA) does not contain a line-item appropriation to the committee, in fact, the GAA does not mention the committee. All revenue and expenditures are processed, accounted for, tracked, and audited through the DSHS budget, fiscal, and audit structures.

Due to the absence of a legislative appropriation, the committee is unable to hire staff or expend funds in its own name. Much of the information requested in this Self-Evaluation Report is not available for individual licensing programs. The information is available regarding DSHS in an agency-wide format. Some information requested in Sections V (Funding) and VI (Organization) is available in a format that is specific to the committee, with some necessary modifications, and the modified information is submitted in this report.

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.

The organizational chart of the DSHS Professional Licensing and Certification Unit is attached. The Unit is organized into groups with specific functions. All Unit staff provide services for multiple regulatory boards and programs.

Policy, Standards, and Board Support Functions: Staff members who serve as Executive Directors for the Unit's licensing programs are organized within the Regulation and Standards Group. Other staff in this group provide administrative support for board and committee meetings, and carry out examination-related functions. The committee's Executive Director also serves as the Executive Director for the State Board of Examiners for Speech-Language Pathology and Audiology.

Licensing and Customer Service Functions: Staff who process licensing applications and renewals, and provide customer service by telephone and e-mail, are organized within one of the Unit's three licensing groups. One of these groups, Licensing Group A, serves seven licensing programs, including the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. Other programs served by Licensing Group A include the speech-language pathologist and audiologist, orthotist/prosthetist, massage therapist, athletic trainer, dietitian, and perfusionist licensing programs.

Complaint and Investigation Functions: Staff who receive, process, and investigate consumer complaints are organized within the Investigations and Quality Assurance Group, which provides complaint and investigation services for the 23 licensing programs of the Professional Licensing and Certification Unit.

B. If applicable, fill in the chart below listing field or regional offices.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 8: FTEs by Location – Fiscal Year 2008			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2008	Number of Actual FTEs as of August 31, 2008
Headquarters	8407 Wall Street Austin	0.96	0.96
TOTAL		0.96	0.96

C. What are your agency's FTE caps for fiscal years 2008-2011?

N/A

D. How many temporary or contract employees did your agency have as of August 31, 2008?

N/A

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 9: List of Program FTEs and Expenditures – Fiscal Year 2008		
Program	FTEs as of August 31, 2008	Actual Expenditures
Licensing and regulation of hearing instrument fitters and dispensers	0.96	\$80,381
TOTAL	0.96	\$80,381

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Licensing and regulation of hearing instrument fitters and dispensers
Location/Division	DSHS Professional Licensing and Certification Unit/Austin
Contact Name	Joyce Parsons, Executive Director
Actual Expenditures, FY 2008	\$80,381
Number of FTEs as of August 31, 2008	0.96

B. What is the objective of this program or function? Describe the major activities performed under this program.

The committee is the licensing and regulatory authority for hearing instrument fitters and dispensers in Texas. The committee's primary mission is to enforce licensure rules and standards for hearing instrument fitters and dispensers as a means to protect and promote public health and welfare. The committee accomplishes its mission within the parameters established by Texas Occupations Code, Chapter 402.

The committee mission is to regulate hearing instrument fitters and dispensers in Texas in order to improve and maintain standards for the profession and to protect the public. The committee accomplishes these goals by establishing and administering qualifications for licensure and license renewal, including examinations, and enforcing standards for the profession.

Major activities include the:

- Issuance of new and renewal licenses to qualified licensed temporary training permit holders, apprentices, and fitters/dispensers of hearing instruments;
- Approval of the International Hearing Society written examination for licensure and administration of the written examination three times annually;
- Development and maintenance of the Texas practical examination for licensure and administration of the practical examination three times annually;
- Processing, evaluation, and approval of applications to become licensed temporary training permit holders, apprentice permit holders, and fitters/dispensers of hearing instruments;
- Processing, evaluation, and approval of applicant examination scores;
- Processing, evaluation, and approval of new and renewal applications for approval of continuing education sponsors;
- Processing of consumer complaints against license holders; and
- Presentation of complaints to the Complaints Subcommittee, and the imposition of enforcement sanctions against license holders found to be in violation of the law or rules.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The program's workload statistics demonstrate overall effectiveness and efficiency. This includes annual totals of:

- persons permitted for temporary training;
- persons permitted as apprentices;
- persons completing the committee's practical examination;
- persons licensed as fitters/dispensers;
- complaints received;
- jurisdictional complaints resolved; and
- disciplinary actions taken.

Additionally, once appropriate application materials are on file, permits and licenses are approved, processed, and issued within seven working days.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Refer to Section III – History and Major Events.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The functions directly affect Texas consumers of hearing instruments and persons regulated by the committee. There are approximately 550 licensed temporary training permit holders, apprentices, and fitters/dispensers of hearing instruments in Texas. The committee does not collect data on the number of clients those license holders serve.

Qualifications to become a licensed fitter and dispenser of hearing instruments are set out in Occupations Code §§ 402.202-203, 207-209, and 251-257; and 22 Texas Administrative Code § 141.8:

- **Temporary Training Permit:** Graduation from an accredited high school or the equivalent and completion of application form and payment of fees. Prior to taking the examination, a temporary permit holder must complete 160 hours of supervised training experience. After successful completion of the examination, a temporary training permit holder upgrades to an apprentice permit.
- **Apprentice Permit:** Successful completion of all requirements for Temporary Training Permit Holders, including supervised experience and examination. An apprentice must work under the supervision of a licensed fitter/dispenser for one year, and must complete 20 classroom hours of continuing education.

- Fitter/Dispenser of Hearing Instruments License: Successful completion of all requirements for Temporary Training Permit Holders and Apprentice Permit Holders, as well as submission of required surety bonding documentation. Every two years, the license must be renewed by completion of renewal application, payment of renewal fee, completion of required continuing education, and completion of equipment certification or calibration.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Rulemaking processes are carried out in accordance with the Administrative Procedure Act, Occupations Code, Chapter 402, and the policies and procedures of DSHS. The application for licensure/examination, and complaint processing/enforcement processes are detailed in the attached flowcharts.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Licensing fees are deposited into the general revenue fund.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

There is no other state or federal agency that licenses and regulates Texas fitters and dispensers of hearing instruments. Audiologists, who are also authorized to fit and dispense hearing instruments in Texas, are licensed and regulated through the State Board of Examiners for Speech-Language Pathology and Audiology. Physicians, who may also fit and dispense hearing instruments in Texas, are licensed and regulated through the Texas Medical Board.

There are a number of state agencies that license and regulate various occupations and professions, but they are not engaged in the regulation of fitters and dispensers of hearing instruments.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The committee's licensure activities are distinct from the other programs listed in Question H and there is no duplication or conflict. There are no MOUs, interagency agreements, or interagency contracts in effect.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

N/A

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2008;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Please see Section IX – Policy Issues.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The regulation of fitters and dispensers of hearing instruments is necessary as a means to protect and promote public health, safety, and welfare. The regulation is intended to ensure that persons seeking hearing instrument products and services are availing themselves of the services of a qualified and competent hearing instrument fitter and dispenser.

Occupations Code, Chapter 402 does not provide authority for routine inspections or compliance audits of the businesses or worksites of fitters and dispensers of hearing instruments. When a jurisdictional consumer complaint is filed, the matter is investigated, either through a desk investigation (requesting records from the license holder and/or complainant) or an onsite investigation, if warranted. Complaint files are presented to the Complaints Subcommittee for review, determination of whether a violation has occurred, and the imposition of disciplinary action, if appropriate.

Additionally, the committee audits a percentage of licensees regarding continuing education, surety bonding, and calibration of equipment compliance.

When non-compliance is identified, a number of follow-up actions may be taken. In a complaint matter, the license holder could be required to complete additional continuing education in addition to enforcement sanctions. Program staff monitor enforcement orders and report non-compliance to the Complaints Subcommittee for additional action. If another complaint is received or if there is reason to believe the problem has not been resolved, the matter is re-investigated or submitted to Complaints Subcommittee for further action.

The committee is authorized to impose a broad range of enforcement sanctions to ensure compliance with the law and rules. These sanctions include denial of an initial or renewal application, administrative penalties, emergency suspension, reprimand, suspension, probation, and revocation. Procedures for handling consumer complaints are illustrated in the attached flowchart.

O. For each regulatory program, if applicable, provide the following complaint information.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 10: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008		
	FY 2007	FY 2008
Total number of regulated persons	543	574
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	32	31
Total number of complaints initiated by agency	1	2
Number of complaints pending from prior years	37	19
Number of complaints found to be non-jurisdictional	0	1
Number of jurisdictional complaints found to be without merit	13	9
Number of jurisdictional complaints resolved	45	21
Average number of days for complaint resolution	99 days	219 days
Complaints resulting in disciplinary action:	10	5
administrative penalty	1	1

probation	1	0
other – non-disciplinary warning letter	8	4

VIII. Statutory Authority and Recent Legislation

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 11: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency
Occupations Code, Chapter 402 Hearing Instrument Fitters and Dispensers	Creates the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments and provides authority to license and regulate fitters and dispensers.
Occupations Code, Chapter 101 Health Professions Council	Creates the Health Professions Council and defines membership to include the licensing boards and programs of the Professional Licensing and Certification Unit, Texas Department of State Health Services (including the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments).
Occupations Code, Chapter 53 Consequences of Criminal Conviction	Provides authority to revoke, deny, or suspend a license based on criminal convictions in certain circumstances.
Education Code § 57.419 Loan Default Ground for Non-renewal of Professional or Occupational License	Prohibits the committee from renewing the license of a licensee whose name is on a default list provided by the Texas Guaranteed Student Loan Corporation.
Family Code, Chapter 232 Suspension of License	Requires the board to suspend a license upon receipt of a court order or Attorney General's order suspending the license for failure to comply with the terms of a child custody order or for failure to pay child support.
Title IV, Public Law 99-660, Health Care Quality Improvement Act of 1986 and 45 CFR Part 60	Established the National Practitioner Databank and requires the committee to report certain disciplinary actions to the databank.
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
GA-0525 March 6, 2007	Occupations Code § 402.451(a)(6)-(7) is preempted by the federal statutes and regulations governing the sale of hearing aid devices by mail.
GA-0382 December 13, 2005	A licensing examination given by the committee must be validated by an independent testing professional in its entirety including the practical as well as the written components of the examination.

**State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments
Exhibit 12: 81st Legislative Session Chart**

Legislation Enacted – 81st Legislative Session

Bill Number	Author	Summary of Key Provisions
HB 594	King	Addresses licensing of persons who hold out-of-state licenses as fitters/dispensers, supervision of temporary training permit holders by licensed audiologists, and license renewal requirements.

Legislation Not Passed – 81st Legislative Session

Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
N/A		

IX. Policy Issues

A. Brief Description of Issue

Should the regulation of fitters and dispensers of hearing instruments and the regulation of audiologists be combined under the authority of one state board?

B. Discussion

Currently, the regulation of fitters and dispensers of hearing instruments is the statutory responsibility of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. The regulation of audiologists is the statutory responsibility of the State Board of Examiners for Speech-Language Pathology and Audiology.

Both occupations are authorized to fit, dispense, and sell hearing instruments to the public. There are significant differences between the occupations, in terms of educational requirements (a minimum of a master's degree is required to become licensed as an audiologist, whereas a fitter and dispenser of hearing instruments is required to hold a high school diploma) and in terms of scope of practice (both occupations may test hearing, and may fit, dispense, and sell hearing instruments; whereas audiologists have a broader scope of practice that also includes the habilitation and rehabilitation of disorders of the auditory and vestibular systems and modifying communicative disorders).

In the arena of fitting, dispensing, and sales of hearing instruments, both occupations serve hearing-impaired populations and both regulatory bodies receive and resolve complaints regarding these services. Some consumers have difficulty distinguishing between the occupations.

All states regulate audiologists; 45 states regulate fitters and dispensers of hearing instruments. Of those 45 states, 17 states administratively combine the regulation of fitters/dispensers with the regulation of audiologists, either under an umbrella board structure or an umbrella agency structure. In the remaining 28 states, the regulation of fitters/dispensers and audiologists is administered separately.

C. Possible Solutions and Impact

Consideration should be given as to whether the public might be more effectively served if the regulation of fitters and dispensers of hearing instruments and audiologists were combined under one regulatory board. A regulatory consolidation would ensure ongoing consistency in the statutory and rule provisions governing the fitting, dispensing, and sale of hearing instruments. The elimination of a regulatory board would result in relatively minor cost savings, mainly travel costs.

Some license holders might oppose a regulatory consolidation, due to the long-term history of separate regulatory structures in Texas and the occupation-specific identification those structures have encouraged over the years.

A. Brief Description of Issue

Could the licensing process for fitters and dispensers of hearing instruments be streamlined by combining the temporary training permit and the apprentice permit?

B. Discussion

The licensing process and qualifications to become a licensed fitter and dispenser of hearing instruments are set out in Occupations Code §§ 402.202-203, 207-209, and 251-257; and 22 Texas Administrative Code § 141.8.

A person who wishes to become licensed must first apply for and be approved as a temporary training permit holder. Prior to taking the examination, a temporary permit holder must complete 160 hours of supervised training experience. A temporary training permit is valid for one year (and may be extended for another six months) and a temporary training permit holder works under the supervision of a licensed fitter and dispenser of hearing instruments. A temporary training permit holder may not own an independent fitting/dispensing business. After successful completion of the examination, a temporary training permit holder applies for an upgrade to an apprentice permit. A temporary training permit holder may upgrade to the apprentice permit upon successful completion of the examination and training and is not required to hold the permit for the full one-year period.

An apprentice permit holder works under the supervision of a licensed fitter and dispenser of hearing instruments for one year and may not own an independent fitting/dispensing business. An apprentice permit holder must also complete 20 classroom hours of continuing education. After completing these requirements, an apprentice permit holder applies for an upgrade to regular licensure as a fitter and dispenser of hearing instruments. An apprentice permit holder may not upgrade to the regular license until one year from the date of issuance of the apprentice permit.

C. Possible Solutions and Impact

While many licensing programs have a time-limited license for the purpose of training and supervision prior to achieving full licensure, we are not aware of licensing programs that have two sequential licenses for this purpose. Consideration should be given to consolidating the temporary training permit and the apprentice permit, which would streamline and simplify the licensure process.

A. Brief Description of Issue

The term of license for a fitter and dispenser of hearing instruments is two years. Should a license holder be required to complete 20 hours of continuing education each year of the two-year term of license instead of a total of 40 hours during the two-year term of license?

B. Discussion

Occupations Code § 402.303 requires that “The committee by rule shall adopt requirements for the continuing education of a license holder, including a requirement that a license holder complete 20 hours of continuing education each year. For purposes of this requirement, each year runs concurrently with the effective date of a license issued under this chapter. The committee may not renew a license unless the license holder demonstrates compliance with the continuing education requirements established by the committee.”

Occupations Code § 402.301(a), as amended by H. B. 594, 81st Legislature, 2009, requires that “A license under this chapter is valid for two years. The committee shall renew the license every two years on payment of the renewal fee unless the license is suspended or revoked.”

This 2009 amendment simply updated the law to reflect the actual operation of the DSHS Professional Licensing and Certification Unit, as Health and Safety Code § 12.0112(a), which was enacted in 2003 and became effective on January 1, 2005, requires that “Notwithstanding other law and except as provided by Subsection (b), the term of each license issued by the department, or by a regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department, is two years. The department, regulatory board, or agency may provide for staggering the issuance and renewal of licenses.”

The committee’s licenses, along with all other licenses issued through the DSHS Professional Licensing and Certification Unit, were transitioned from one-year terms to two-year terms beginning in 2005. Since the 2003 amendment to the Health and Safety Code did not specifically address continuing education requirements, DSHS interpreted that those requirements should be doubled as licenses were moved to two-year terms. In the case of the committee, this interpretation would mean that a license holder must complete 40 hours of continuing education at any time during the two-year license term. Other boards and programs within the DSHS Professional Licensing and Certification Unit amended their rules to double the continuing education hours and require that the hours be completed at any time during the two-year license term. The committee and its stakeholders disagree with the DSHS interpretation that the 40 hours of continuing education may be completed at any time during the two-year license term.

The law requires that a license holder must complete 20 hours of continuing education each year. The law prohibits the committee from renewing the license of a person who does not meet this requirement. However, a person who completes 15 hours during the first year and 25 hours during the second year of the license term has completed the total number of hours required (40) but has not completed them within the time frame established by law (20 hours were not completed in the first year, as required by law). In this example, the person’s license may not be renewed and neither the law nor the rules provide a remedy, so that the person may make up the hours and renew the license. The person must obtain a new license by completing the licensing process described above (temporary training permit, examination, apprentice permit), which can take a minimum of one and one-half years to complete.

C. Possible Solutions and Impact

The law could be modified to allow continuing education to be completed at any time during the two-year term of license. Administering the law as written creates significant obstacles, as well as possible due process implications for license holders who fail to complete 20 hours of continuing education each year but who have completed 40 hours during the two-year license term.

A. Brief Description of Issue

Do the provisions of Occupations Code § 402.209 function as an unnecessary obstacle to Texas licensure for license holders from other states?

B. Discussion

The provisions of Occupations Code § 402.209 were substantially modified upon the enactment of H. B. 594, 81st Legislature, 2009. The amendments to this section of the law closely track the amendments to the reciprocity rules that were adopted by the committee and became effective on December 11, 2008 (see Title 22, Texas Administrative Code § 141.10).

The law and rules require that applications from persons who hold licenses issued by another state shall be considered by the committee. Since the committee meets three times annually, an applicant may be required to wait from one to four months for the committee review. Since the committee's Applications Subcommittee is currently inactive, the applications are reviewed by the full committee. After the committee review, the law provides that the committee may approve or deny an application. If the application is approved, the law provides that the person may take the next regularly scheduled examination. Examinations are administered three times annually, in conjunction with committee meetings. This means the applicant must wait four months after the committee has reviewed the person's application to take the examination. Examination results are released one month after each examination date. In total, a person licensed in another state who desires Texas licensure receives the license six to nine months from the time of application.

Additionally, HB 594 enacted a new provision that an applicant for Texas licensure must affirm that the applicant is a resident of this state at the time of license application. This means that a person may not begin the application review process until the person has physically moved to Texas, although the person could not receive a license for six to nine months after moving to Texas.

C. Possible Solutions and Impact

The provisions of Occupations Code § 402.209 could be amended to delete the requirement for committee review of applications filed under the section in order to allow staff review and approval of those applications, as is standard operating procedure in other licensing programs within the DSHS Professional Licensing and Certification Unit. Additionally, the requirement that a license applicant must be a resident of Texas could be modified to allow a person to initiate the licensing and examination processes prior to moving to Texas.

A. Brief Description of Issue

Does the 30-day trial period effectively protect consumers?

B. Discussion

Occupations Code § 402.401 (Trial Period), provides that “The committee shall establish guidelines for a 30-day trial period during which a person may cancel the purchase of a hearing instrument.” The committee’s guidelines are found in the rules at Title 22, Texas Administrative Code § 141.16(b). The guidelines establish requirements and procedures for the trial period, including extensions of the trial period due to needed repairs or service by the license holder, “agreed-upon” charges and fees that are not refundable, and the refund procedure.

The majority of the committee’s consumer complaints involve requests by consumers for refunds after the 30-day trial period has elapsed, sometimes as long as one year after the purchase of the hearing instrument. Many of these consumers assert that they did not receive information about, or did not understand the requirements of, the 30-day trial period; that the fitter and dispenser of hearing instruments assured them that a refund would still be available after the end of the 30-day trial period if they were unhappy with their purchase; that they did not know their hearing aids were unacceptable until after the end of the 30-day trial period; or that the fitter and dispenser of hearing instruments persuaded them not to return the hearing aids during the 30-day trial period, counseling them instead that they needed to allow more time to adjust to the hearing aids.

In many of these cases, the Complaints Subcommittee is unable to verify a violation of the 30-day trial period guidelines and the matter does not result in disciplinary action. In any case, the committee has no authority to require that a license holder provide a refund to a consumer. Consumers are advised of their right to attempt recovery on the surety bond required by Occupations Code § 402.404.

C. Possible Solutions and Impact

Consideration could be given as to whether hearing instrument consumers are adequately protected by the 30-day trial period. License holders could perceive that extending the trial period would have a negative impact on their businesses. More extensive research, including research on manufacturer’s return policies and best practices in other states, would be necessary to determine whether hearing instrument consumers are adequately protected by the 30-day trial period.

X. Other Contacts

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments Exhibit 13: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Texas Hearing Aid Association Scott Pospisil, Executive Director	P. O. Box 476 Austin TX 78767	(512) 477-1991	scott@association-mgt.com
INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
International Hearing Society Kathleen Mennillo, Education Manager	16880 Middlebelt Road, Suite 4 Livonia MI 48154	(734) 522-7200	kmennillo@ihinfo.org
LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	Address	Telephone	E-mail Address
N/A			

XI. Additional Information

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is administratively attached to the DSHS Professional Licensing and Certification Unit, and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the committee's mission and functions. This unique arrangement has implications for much of the information requested in this Self-Evaluation Report.

The committee is funded through the appropriation to DSHS for Strategy D.1.4 (Health Care Professionals). This appropriation funds 25 programs within DSHS. The legislative appropriation is made to DSHS, not to the committee. The General Appropriations Act (GAA) does not contain a line-item appropriation to the committee; in fact, the GAA does not mention the committee. All revenue and expenditures are processed, accounted for, tracked, and audited through the DSHS budget, fiscal, and audit structures. Due to the absence of a legislative appropriation, the committee is unable to hire staff or expend funds in its own name.

The information regarding complaints against the agency, historically underutilized businesses, and equal opportunity employment requested in Section XI is not available for individual licensing programs, including the committee. The information is available regarding DSHS in an agency-wide format and can be provided upon request.

State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments List of Attachments Self-Evaluation Report

1. Enabling law
2. Rules
3. Committee member biographies/resumes
4. Organizational chart – DSHS Professional Licensing and Certification Unit
5. Complaint Process Flowchart
6. Licensing/Certification Application Process Flowchart