

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

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Summary

The Legislature created the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids in 1970 as an independent state agency to regulate individuals who measure human hearing for the purpose of selling devices for hearing loss treatment. In 1993, the Legislature discontinued the Board as an independent agency, changing its name to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (Committee) and administratively attaching it to the Department of State Health Services (DSHS). Today, the Committee regulates hearing instrument fitters and dispensers through licensing and enforcement as a means to protect Texas consumers and to maintain standards for the profession.

Senate Bill 663 continues the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for six years and contains all of the Sunset Commission's recommendations, including removing unnecessarily restrictive continuing education and residency requirements, and ensuring consistency and fairness in the Committee's operations. A discussion of the bill's major provisions follows.

Sunset Provisions

1. Continue the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for six years.

Senate Bill 663 continues the Committee for six years, administratively attached to DSHS. This shorter Sunset date will allow the Sunset Commission to evaluate the Committee together with seven other licensing programs administered by DSHS' Professional Licensing and Certification Unit that are scheduled for Sunset review in 2017. In addition, the bill applies the standard Sunset across-the-board requirements to the Committee regarding public membership, conflicts of interest, presiding officer designation, grounds for removal, board member training, separation of duties, and public participation.

2. Make the Committee's continuing education requirements less restrictive for both licensees and sponsors.

Senate Bill 663 changes the current 20-hour continuing education requirement from an annual requirement to a biennial requirement beginning May 1, 2012. The bill also requires the Committee to adopt rules to establish reasonable requirements for continuing education sponsors and courses, and to clearly define what constitutes a manufacturer or non-manufacturer sponsor. The bill requires DSHS, rather than the Committee, to review and approve continuing education sponsors and course applications, but allows DSHS to request assistance from licensed members of the Committee with the approval process.

Senate Bill 633 also requires the Committee, by rule, to adopt requirements for online continuing education sponsors and courses, and requires the Committee to allow a license holder to obtain at least 10 hours of continuing education online.

3. Remove the Committee's unnecessary residency restriction for out-of-state hearing instrument fitters and dispensers.

Senate Bill 663 removes the statutory requirement that hearing instrument fitters and dispensers licensed in other states establish Texas residency before applying for a Texas license. The bill also requires DSHS, rather than the Committee, to review and approve or deny out-of-state licensure applications.

4. Better ensure fairness and objectivity in the Committee's examination practices.

Senate Bill 663 requires the Committee to adopt rules establishing qualifications for practical exam proctors. The rules must require a proctor to be licensed as a hearing instrument fitter and dispenser in good standing; specify the number of years a proctor must be licensed; and specify the disciplinary actions or other actions that disqualify a person from serving as a proctor. The bill also requires the practical exam be administered by one or more qualified proctors, selected and assigned by DSHS. The Legislature modified this Sunset provision to clarify that the Committee shall develop and maintain an examination that may include written, oral, or practical tests, and DSHS shall administer or arrange for the administration of the exam.

5. Conform key elements of the Committee's licensing and regulatory functions to common licensing standards.

Senate Bill 663 includes six provisions that bring the Committee in line with standard licensing agency practices, including the following.

- Requires the Committee to obtain a fingerprint-based criminal history check on each applicant and license holder.
- Authorizes the Committee to order a license holder to pay a refund to a consumer who returns a hearing instrument during the required 30-day trial period.
- Prohibits a Committee member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint from voting on the matter at a Committee meeting related to the complaint.
- Requires the Committee to appoint at least one public member to each of its subcommittees.
- Requires the Committee, by rule, to adopt procedures governing informal proceedings and informal settlement conferences, and to approve informal agreements made by DSHS staff with licensees through the informal settlement conference process.
- Authorizes the Committee to issue a cease-and-desist order for unlicensed practice of fitting and dispensing hearing instruments; and allows the Committee to impose an administrative penalty against an individual who violates a cease-and-desist order.

6. Ensure consistency in the sale of hearing instruments.

Senate Bill 663 requires the Committee and the State Board of Examiners for Speech-Language Pathology and Audiology (Board), with DSHS assistance, to jointly adopt rules to establish requirements for each sale of a hearing instrument. The rules must address the information and other provisions required in each written contract; records that must be retained; and guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument. The bill stipulates the Committee and Board must adopt the joint rules by May 1, 2012. The bill also requires the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be written in plain language designed to be easily understood by the average consumer.

Fiscal Implication Summary

Senate Bill 663 will result in a gain of \$8,228 to General Revenue each fiscal year, beginning in fiscal year 2012. The bill requires the Committee to obtain a fingerprint-based criminal history check on each hearing instrument fitter and dispenser applicant and license holder, and authorizes the Department of Public Safety (DPS) to administer these checks. Implementing this provision will require performing an estimated 484 additional checks each fiscal year. The fee for performing each check is \$34.25 which is deposited into General Revenue, but a portion of this fee, \$17.25 per check, is returned to the FBI for professional services as required by federal law. These additional checks will account for a small percentage of the criminal history checks DPS facilitates each year, so any additional operational costs will be absorbed within existing DPS resources.

Fiscal Year	Gain to the General Revenue Fund	Cost to the General Revenue Fund
2012	\$16,577	\$8,349
2013	\$16,577	\$8,349
2014	\$16,577	\$8,349
2015	\$16,577	\$8,349
2016	\$16,577	\$8,349

