



Academy of Doctors of Audiology

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August 20, 2015

John V. Ladd
Administrator
Office of Apprenticeship
Employment and Training Administration
U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

Re: Apprenticeship Standards for Hearing Aid Specialists

Dear Mr. Ladd:

The Academy of Doctors of Audiology (“ADA”) respectfully requests rescission of the Approval and Certification of National Guidelines for Apprenticeship Standards Developed by the International Hearing Society for the Occupation of Hearing Aid Specialist (“the Certification” and “the Standards”). The Certification is No. C-2105-03 dated June 2, 2015.

Pending consideration of this request, no apprenticeship programs should be approved and registered by the Office of Apprenticeship pursuant to the Certification and Standards and other Registration Agencies should be advised that this request is under consideration and may result in the need to deregister any apprenticeship programs they might approve pursuant to the Certification and Standards. Any apprenticeship programs that have been approved and registered by the Office of Apprenticeship pursuant to the Certification and Standards should be deregistered.

The Standards go far beyond the typical scope of practice of a Hearing Aid Specialist (“HAS”) in the United States, as that is defined by state law. The Certification does not therefore “safeguard the welfare of apprentices,” as required by the National Apprenticeship Act, 29 U.S.C. 50, and the regulations adopted pursuant to it, 29 C.F.R. § 29.1(b). Nor is the good of the public served by the Certification, indeed it will be harmed.

Apprentices will be misled into believing that they can obtain employment using all of the skills that they will acquire, when they will not in fact be able to do so without violating the licensing laws of their states. It will be a waste of their money, time and energy to obtain those skills.

Occupation Code 29-2092.00 for Hearing Aid Specialists (“the Code”) is far more limited in its definition than the Description set out in the Certification and moreover makes a critical occupational distinction: “Select and fit hearing aids for customers. Administer and interpret tests of hearing. Assess hearing instrument efficacy. Take ear impressions and prepare, design, and modify ear molds. Excludes ‘Audiologists’ (29-1181).”

The Description in the Work Process Schedule Appendix of the Certification, page A-3 (“the Description”), contains numerous items that go beyond the Code definition to the state defined practice of Audiology:

1. Administer cerumen management in the course of examining ears;
2. Administer and interpret tests of human . . . middle ear function, including appropriate objective and subjective methodology and measures;
3. Determine candidacy for . . . referral for cochlear implant evaluation or other clinical, rehabilitative, or medical interventions;
4. Design and modify . . . auditory equipment;
5. Provide . . . aural rehabilitative services;
6. Provide tinnitus management to clients who exhibit symptoms of tinnitus during an evaluation of hearing loss conducted for the purpose of determining the appropriateness of hearing aids and/or tinnitus devices;
7. Provide supervision and in-service training of those entering the dispensing profession.

The Description moreover goes beyond the scope of practice for HAS’s under the laws of almost every state. There is a largely uniform state statutory definition of the practice of fitting or dispensing hearing aids, of which the version in California Business and Professions Code § 2538.11 is representative:

Those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary post fitting counseling.

The same parts of the Description that go beyond the BLS Occupational Code definition are not permitted under most of the laws of the fourteen states with the greatest number of HAS’s, or concentration of HAS’s by state or metropolitan area, as reported by the U.S. Bureau of Labor Statistics (<http://data.bls.gov/cgi-bin/print.pl/oes/current/oes292092.htm>) as of May 2014.¹ Those fourteen state laws are typical of those throughout the nation.²

The Standards inherently should only describe the knowledge and skills of an occupation in which an apprentice can train with a reasonable probability of being legally permitted to use that knowledge and set of skills. To the extent that these Standards do not do so, they are not for an “apprenticeable occupation” as required by 29 C.F.R. § 29.5(a).

The motivation for the submission of the Standards for Certification does not determine their legality, but it is worth noting that the International Hearing Society (“IHS”) almost certainly had a broader agenda that it sought to serve by obtaining approval of the Standards. That motivation is straightforward: to expand the scope of practice of HAS’s under state law³. The Standards are *aspirational*, they do not reflect the existing scope of practice of the occupation. IHS no doubt intends to go to state legislatures for scope

¹ Arizona, California, Florida, Illinois, Iowa, Louisiana, Michigan, Montana, New Jersey, New York, Ohio, Oregon, Texas and Washington.

² Some items in the Description may, with broad interpretation of state law, be permitted in those fourteen or some other of the states: (1) Cerumen management (KY, NC); (4) Change of frequency response of any instrument (NJ), Adaptations of hearing aids (IA), Hearing aid adjustment (NC); (5) Rehabilitation only as to hearing aids and related devices (AZ), training in the use of amplification, including hearing aids (NY), rehabilitation related to hearing aids (NC); (6) Tinnitus management (NC).

³ IHS Model Licensure Act: http://ihsinfo.org/lhsV2/Communities_Chapters/Model%20Bill%202007.pdf, retrieved on August 10, 2015.

expansion, hoping to leverage the Certification of the Standards by the federal government to bolster its position. The larger motivation has little to do with apprenticeship and much more to do with the ambitions of existing HAS's.

This intention is reflected in statements by IHS. In an article published on June 30, 2015, in *The Hearing Review*, concerning the announcement of the Certification, IHS said that it was "establishing much-needed national standards to elevate the profession." In an article published on July 19, 2015, in *Hearing Health & Technology Matters*, including reporting from an interview of the Executive Director of IHS, it was said that, "While IHS would like to see a uniform standard of licensing laws across the US for Hearing Aid Specialists, they note that this would likely take years to achieve, despite the new federal recognition of the apprenticeship program standards. Early on in the process, IHS plans to work directly with a handful of states to help them clearly understand the process and learn and test the new system. Once there is a clear understanding, the Society plans to encourage all potential employers and states to recognize and utilize the program."

Audiologists and HAS's often work together in the clinical setting; they stand next to each other literally and figuratively. But each profession has its appropriate place in the provision of hearing health care to the public, commensurate with the training required for licensure. ADA does not take issue with the right of HAS's to dispense hearing aids, nor with offering the opportunity for persons to enter that occupation as apprentices. Rather, ADA takes issue with this indirect attempt to allow HAS's to practice audiology, without the proper education and training, clinical experience, verification of knowledge, or license to practice.

Audiologists must have the Doctor of Audiology (AuD) degree, in nearly all cases requiring four years of post-baccalaureate education, 1820 hours of supervised clinical training, and the required passage of a national examination (Praxis). The requirements for AuD education are set forth by the Council on Academic Accreditation in Audiology and Speech Pathology (CAA). The academic and clinical requirements can be found at <http://www.asha.org/academic/accreditation/>.

HAS's in most states need only have a high school diploma or the equivalent, typically require less than 500 hours of supervised clinical training, typically do not require passage of a national examination and of course potentially can apprentice. The existing scope of practice established for HAS's under state law is properly limited and should not extend to the scope put forward in these Standards.

It is not appropriate for the Office of Apprenticeship to establish a *new* scope of practice for an occupation that goes beyond state law. Rather, program standards must only reflect what apprentices *can legally do now*. Otherwise, apprentices become unwitting pawns in a larger game that has at best only tangential potential value to them. And even if the states preclude the registration of programs that go beyond their actually existing scopes of practice, this Office will have been used inappropriately to advance a cause that is beyond its purpose. That will be all the more true if programs are presented to the Office for registration that meet the Standards but will train apprentices for work they cannot legally perform where they reside.

The Office of Apprenticeship lacks the expertise to determine what apprentice HAS's, or any other apprentices, *should* be able to do, especially since the occupation is regulated by state law. The Office must rely on leaders in the occupation to inform it of what apprentices *actually are permitted to do*. While that reliance was no doubt placed on IHS in this case, the trust of the Office was abused.

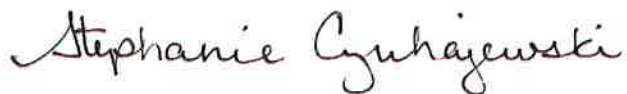
The Certification thus inverts the correct process by which standards reflect existing scopes of practice, rather than carving out potentially expanded scopes. The Certification accordingly should be rescinded and only reinstated when standards are submitted that accurately reflect the scope of practice of the occupation of HAS. Those standards can then be expanded if and when the states expand them, without the imprimatur of the Office supporting such expansion.

We will of course be happy to provide further information or to discuss this matter at your convenience. Thank you for your consideration.

Respectfully,

Handwritten signature of Kimberly M. Cavitt in black ink.

Kimberly M. Cavitt, Au.D., President

Handwritten signature of Stephanie Czuhajewski in black ink.

Stephanie Czuhajewski, CAE, Executive Director

Cc: Robert M. Gippin, Esq.