



Dual Licensure

The Commonwealth of Kentucky has 916,000 residents with hearing loss, representing more than 20 percent of the population. Meanwhile, there are approximately 200 licensed audiologists in the state to serve them. The Kentucky Academy of Audiology (KAA) and its members are dedicated to delivering evidence-based diagnostic and treatment services, including hearing aid dispensing and fitting services that ensure optimal patient outcomes. Unfortunately, archaic regulations impose significant barriers for audiologists seeking to practice in Kentucky.

Kentucky is one of only seven states that requires licensed audiologists to also hold two separate licenses for duplicative hearing loss treatment and habilitative services.^{1, 2} Audiologists are licensed to practice audiology under KRS 334A. They are also unjustly bound under KRS 334, to obtain a separate license in order to dispense hearing aids, even though the definition of audiology under KRS 334A.020 expressly includes "...habilitative and rehabilitative programs, including hearing aid recommendations and evaluation..."

Per statute, an audiologist licensed under KRS 334A shall not be required to submit to or undergo any training other than payment of fees and successful completion of examination pursuant to KRS 334.050 to 334.070. KAA recognizes the importance of licensure for professionals involved in fitting and dispensing hearing aids as a means of consumer protection. However, requiring audiologists to hold two licenses for the same services offers no additional protection to the consumer. In fact, subjecting audiologists to the authority of a licensing board, comprised largely of competitors, creates opportunities for unchecked anticompetitive behavior. Additionally, as the education and training requirements for audiologists are substantially more advanced than those of hearing aid specialists, they are unqualified to provide oversight of the licensure for audiologists as it relates to the dispensing of hearing aids or any other service within an audiologist's scope of practice. Therefore, the appropriate licensure requirements for the practice of audiology are universally and singularly contained under the Kentucky licensure statute for Audiology, KRS 334A.



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Kentucky has gone to lengths to remedy some of the deficiencies in its licensing laws after the North Carolina State Board of Dental Examiners v. FTC decision by the U.S. Supreme Court in 2015. At issue in that case was the restraint of trade by the Board that was viewed as anticompetitive.³ We believe placing audiologists under the Board for Specialists in Hearing Instruments could raise a similar issue as disciplinary actions could be brought by a board whose members are active participants in the occupation the Board regulates. The most appropriate venue for disciplinary action for Audiologists is the Board of Audiology and Speech Pathology.

In the 1992 case of *Gandee v. Glaser*, the Federal Court established a legal differentiation between the profession of audiology and that of commercial hearing aid dealers. One of the court's key findings was that the education and training of audiologists is vastly more rigorous, nationally consistent, and clinically advanced than the training received by hearing aid dispensers.⁴

Under Kentucky statute, audiologists, who graduated after 2007, are required to hold a clinical doctorate (a Doctorate of Audiology (Au.D.) degree) for licensure. Audiologists who graduated in the year 2007 or prior are required to hold a minimum of a Master's degree in Audiology to practice.⁵ Today, an Au.D. is degree is required for new graduates to enter clinical practice in every U.S. state and territory. Every one of the 70 university audiology training programs nationwide, including the top-ranked program at the University of Louisville, has eliminated master's-level degrees in audiology altogether.⁶ Additionally, at 30 hours per two-year renewal period, Kentucky audiologists have some of the most extensive continuing education requirements in the country.⁷ By comparison, to be qualified as a

licensed "Specialist in hearing instruments" under KRS 334.050 requires only a high school diploma/GED and 12 months of apprenticeship. Furthermore, after only 6 months, hearing instrument specialists may engage in all activities of a licensed specialist, provided they work under the direction of a current license holder.

In late 2017, President Trump signed the FDA Reauthorization Act (FDARA) into law. The bill contained several amendments including the Over-the-Counter Hearing Aid Act (S.670/H.R. 1652). This legislation was designed to allow adults with perceived mild-to-moderate hearing loss to purchase a new class of hearing aids without being seen by a hearing care professional. In 2016, the U.S. Food and Drug Administration (FDA) also announced that it had voluntarily stopped enforcing the medical clearance requirement that called for a "physician waiver" or a medical evaluation prior to obtaining a hearing aid (for adults). The FDA has not yet finalized draft regulations related to OTC hearing aids. However, it is reasonable to anticipate that implementation of the OTC Hearing Aid Act will lead to increases in demand from consumers who need comprehensive hearing health care services, including assistance with comprehensive audiologic testing, hearing aid evaluations, fittings, and counseling services.

Eliminating unnecessary dual licensure requirements will make it easier for consumers to access the hearing health services they need by removing the anti-competitive regulatory framework, as well as the financial penalties tied to the second license for licensed audiologists who are committed to serving them. KAA believes that addressing these unnecessary barriers to practice will help address the shortage of providers in Kentucky's Health Professional Shortage Areas and bring much-needed updates to Kentucky's licensure laws.

ENDNOTES

1 <http://www.ncsb.info/dispensing>

2 KRS 334

3 *North Carolina State Bd. of Dental Examiners v. FTC*, 574 U. S. 494 (2015)

4 *Robert J. Gandee, Terry R. Seese v. Robert G. GLASER*, Margaret M. Robert, Valenta G. Ward-Gravelly, Olive M. Webster, Cathy C. Trent, Ohio Attorney General C-2-88-753 (1992)

5 KRS 334A.050

6 <https://www.audiologist.org/history/aud-history>

7 <http://www.ncsb.info/continuing>