



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

September 15, 1972

Mr. John F. Boff
Executive Director

Texas Board of Examiners in the
Fitting and Dispensing of
Hearing Aids
Penthouse Apts., Room 105
1212 Guadalupe
Austin, Texas 78701

Opinion No. M- 1219

Re: Whether the Board is
required to grant a
reciprocal license to
a person who has
neither a residence
nor place of business
in Texas.

Dear Mr. Boff:

In your recent letter you requested the opinion of
this department on the following question:

"Under Section 1.08 of Article 4566-1.01
of Vernon's Civil Statutes, is the Board re-
quired to grant a license by reciprocity to an
individual who does not intend to live or office
in the State of Texas?"

Articles 4566-1.01 through 4566-1.22, Vernon's Civil
Statutes, govern the fitting and dispensing of hearing aids in
Texas. Article 4566-1.06 sets out the requirements of a person
desiring to take an examination for a license. Article 4566-
1.08 provides for reciprocal arrangements.

Attorney General's Opinion No. M-636 (1970) was con-
cerned with a question similar to yours. That opinion includes
the following language:

"A careful examination of Article 4566 reveals
that no residence requirement has been made in any
part of the statute. You are therefore advised that
it is the opinion of this office that any person,

wherever resident, who can satisfy the examination requirements set forth in Section 1.06 of Article 4566 is entitled to a license to fit and dispense hearing aids in the State of Texas." (Emphasis added.)

Attorney General's Opinion No. M-715 (1970) was concerned with a rule adopted by the Hearing Aid Board reading as follows:

"On and after May 1, 1970, in accordance with Section 1.06, 1.08, 1.09 of the Article, all persons applying for licenses shall furnish a physical home address and a Texas place of business address; a post office box is not acceptable."

Opinion No. M-715 includes the following language:

"We find no requirement under the provisions of Article 4566-1.06, 1.08 or 1.09 or any other of the provisions of the Act which specifically require an applicant for a license in this state to fit and dispense hearing aids to have a 'physical' residence and business address within the State of Texas.

". . .

"Since we find no express or implied authority for such a rule, we hold that it is void and unenforceable."

Your inquiry dealt specifically with Article 4566-1.08. There is no express requirement in the Article that an applicant for a reciprocity license have a Texas address or place of business. We do not construe the statute as imposing such a requirement, especially in view of the fact that there is clearly no such requirement where an applicant follows the examination route. A statutory board's rules and regulations may not impose any additional requirements which are in excess

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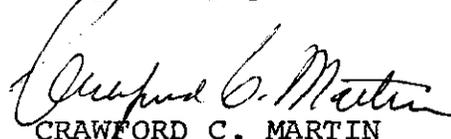
of the statutory requirements. Kelly v. Industrial Accident Board, 358 S.W.2d 874 (Tex.Civ.App. 1962, error ref.); 73 CJS 415, Public Administrative Bodies, Sec. 94; 2 Am.Jur.2d, 29, Admin. Law, Sec. 301; Attorney General's Opinion M-609-A (1970). An administrative agency may not make an additional licensing requirement. Blatz Brewing Co. v. Collins, 69 Cal. App.2d 639, 160 P2d. 37 (1945).

In view of the foregoing, you are advised that your Board may not require an applicant for a reciprocity license under Article 4566-1.08 to have a Texas residence or a Texas place of business.

S U M M A R Y

The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids is not authorized to impose on an applicant for a reciprocity license under Article 4566-1.08, Vernon's Texas Statutes, a requirement that he have a residence or a place of business in Texas.

Very truly yours,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by James S. Swearingen
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APPROVED:
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