



**THE ATTORNEY GENERAL
OF TEXAS**

January 17, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Ashley Smith
Chairman
Government Organization
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78769

LO-89-4

Dear Representative Smith:

You forwarded a letter from a physician who asked you to request an opinion addressing "the question of whether a trained audiologist, acting as my agent accomplishing the tasks for the proper fitting and dispensing of hearing aids under my supervision and employment, would be required to be licensed by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids."

We assume that by the phrase "trained audiologist" the physician means a person who is licensed under article 4512j, V.T.C.S. See V.T.C.S. art. 4512j, §8(b) (providing that person may not hold himself out as an audiologist unless he is licensed under article 4512j).

Articles 4566-1.01 through 4566.1-19 govern the licensing of persons authorized to fit and dispense hearing aids. Article 4566-1.01(f) provides:

'Fitting and Dispensing hearing aids' means the measurement of human hearing by the use of an audiometer or by any means for the purpose of making selections, adaptations and/or sales of hearing aids. The term also includes the sale of hearing aids, and the making of impressions for earmolds to be used as a part of the hearing aid.

Article 4566-1.06 provides that any person desiring to engage in fitting and dispensing hearing aids in Texas must pass an examination given by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids. Article 4566-1.19 sets out the following exceptions to that requirement:

(1) Persons engaged in the practice of measuring human hearing as a part of the academic curriculum of an accredited institution of higher learning, provided such persons or their employees do not sell hearing aids.

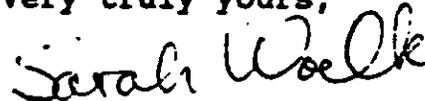
(2) Physicians and surgeons duly licensed by the Texas State Board of Medical Examiners and qualified to practice in the State of Texas.

(3) An individual with a master's or doctorate degree in audiology from an accredited college or university may engage in the measurement of human hearing by the use of an audiometer or by any means for the purpose of making selections and adaptations of or recommendations for a hearing aid and the making of impressions for earmolds to be used as part of a hearing aid, provided such persons do not sell hearing aids.

Any licensed audiologist would presumably fit within the exception set out in article 4566.1-19(3) since an audiologist must have at least a master's degree in audiology. V.T.C.S. art. 4512j, § 10(1). Therefore, an audiologist could perform all aspects of the fitting and dispensing of hearing aids except that he or she could not sell hearing aids.

We assume from information enclosed with your request that the physician who prompted your request is concerned about Attorney General Opinion MW-555 (1982), which held that an individual with a master's or doctorate degree in audiology could not make impressions for earmolds. That holding was changed by 1983 legislation, which enacted article 4556-1.19(3) in its current form. Article 4556-1.19(3) specifically allows an individual with a master's or doctorate degree in audiology to make impressions for earmolds. Acts 1983, 68th Leg., ch. 125, § 1, at 597.

Very truly yours,



Sarah Woelk, Chief
Letter Opinion Section
Opinion Committee

SW/bc

Ref. RQ-1603
ID# 5068