

MINUTES

**UTAH
HEARING INSTRUMENT SPECIALIST BOARD
MEETING**

April 6, 2010

**Room 474 – 4th Floor - 9:00 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:20 a.m.

ADJOURNED: 11:29 a.m.

Bureau Manager:

Clyde Ormond

Board Secretary:

Jacky Adams

Board Members Present:

Robert Heygster, Chairperson
David Simmons

Board Members Absent:

Lowell Brown
Morris Mower

Guests:

Brent Edman, President HHPU (Hearing Healthcare
Providers of Utah)
Doug Dunker, HHPU
Ken Hornok, HHPU
Orson Paul Thursten, HHPU
Mark Bishop

DOPL Staff Present:

Mark Steinagel, Division Director
Ronda Trujillo, Compliance Assistant
Lloyd Hanson, Division Investigations
Lenore Epstein, Attorney General Representative

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

*Due to a lack of a quorum no decisions were made.
These minutes only reflect items that were discussed and recommended.*

ADMINISTRATIVE BUSINESS:

Approval of the January 5, 2010 Board Meeting
Minutes

Approval of the January 5, 2010 Board Meeting
Minutes was tabled until the July 6, 2010 Board
Meeting, due to a lack of a quorum.

APPOINTMENTS:

9:15 a.m. Compliance

Ms. Trujillo explained Mr. Harris is in full compliance with his Stipulation and Order. She then added Mr. Harris is currently not employed in this profession.

9:30 a.m. Harris, Weston

Mr. Harris failed to appear for his scheduled appointment with the Board.

9:45 a.m. Bishop, Mark

Mr. Ormond explained, Mr. Bishop initially became licensed as a HIS (Hearing Instrument Specialist) on April 6, 2005. On September 25, 2006 a complaint was filed against Mr. Bishop, for Unprofessional Conduct, due to his involvement in:

- A DUI; class B Misdemeanor and Assault; Misdemeanor charges;
- Having answered “No” on his application for Renewal of licensure, regarding having been involved in the charges; and
- Having sold a Hearing Instrument to which the Contract failed to state the circuitry of the instrument being purchased.

A notice of Agency Action was sent to Mr. Bishop on four different occasions with no response. Mr. Bishop’s license to practice as a HIS was revoked on March 18, 2008.

Mr. Bishop explained the circumstances around the charges, adding that due to his license having been revoked in this State, he is unable to obtain licensure in California and Arizona. Mr. Bishop then added his previous employer had failed to renew his license, as he had expected. When he became aware of the situation, he attempted to renew his license, via the Divisions web site. However, the web site would not accept his payment if he had answered “Yes” to any of the questions, he had then changed his answers to “No” and then contacted the Division to clarify the situation.

Mr. Ormond then expressed his concern regarding if Mr. Bishop is currently competent to practice in this profession, due to the length of time Mr. Bishop has not practiced.

After a detailed discussion it was determined Mr. Bishop should be issued an unrestricted license as a HIS. Due to his having meet the licensure requirements in California; no continuing education hours were required at this time.

10:00 a.m. Peterson, Christy

Mr. Ormond explained the concern with Ms. Peterson's proposed supervisor was resolved prior to this meeting. No further discussion ensued.

DISCUSSION ITEMS:

Advertising

Mr. Edman and the HHPU Board expressed their concern regarding advertising which is misleading to the public. Mr. Edman clarified due to the current Statute for this profession not requiring the owners of a Hearing Instrument business to be licensed, HHPU is proposing to require the HIS to be held responsible for any advertisements which violates R156-46a-502a(5). If the licensees utilize the false or misleading advertisement to secure a sale of a Hearing Instrument.

Mr. Hansen then explained that currently the Division has no recourse, regarding this issue, against a business owner if the owner is not licensed as a HIS. Mr. Ormond also explained if the FTC (Federal Trade Commission) or the FDA (Food and Drug Administration) takes action against a licensee the Division will take action as well.

A detailed discussion ensued regarding what action a HIS could take if the owner of the business was violating R156-46a-502a. It was stated the HIS could leave the employment in this instance. It was also stated the owner should be held responsible not the HIS.

Mr. Kevin Olsen, Director of Consumer Protection was contacted regarding this issue; he clarified the use of misleading advertising would cause his Division to take action against the business. Mr. Steinagel questioned if requirements similar to the Division of Real Estate could be utilized. It was then clarified that the "Broker" is responsible for the Business and the "Agents. He then added the

Business is also required to be licensed.

Ms. Epstein was called into the meeting to clarify the Statutory requirements. It was questioned if it would require a Statutory change to require both the HIS, Owner, and the Entity to be held responsible if a violation of R156-46a-502a occurred. Ms. Epstein stated that it would.

It was then requested for a representative of HHPU to assist Division Investigations as needed with this type of case, the HHPU representatives present agreed. It was also recommended for all investigations of this type to be forwarded to Consumer Protection for their review as well, Mr. Hansen agreed.

Mr. Heygster recommended tabling this issue until the July 2010 meeting, to enable HHPU, and the Division sufficient time to review this issue and propose either a Statute or Rules change, to ensure:

- The HIS is responsible if they utilize an inappropriate advertisement to secure a sale;
- The individual who places the advertisement is responsible if the advertisement is a violation of R156-46a-502a;
- Clarify R156-46a, as needed.

This issue will be tabled until the July 2010 meeting for further discussion; Ms. Epstein will attend the meeting to further assist as needed. Additionally Mr. Steinagle recommended for HHPU to review the licensure format for Real Estate, to determine if this profession could be structured in a similar manner.

Responsibilities of 'non-dispensing' owners and employees

This issue was discussed in connection with the previous topic.

ADJOURN:

11:29 a.m.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

July 8, 2010	(ss) Robert Heygster
Date Approved	Chairperson, Utah Hearing Instrument Specialist Board

July 12, 2010	(ss) Clyde Ormond
Date Approved	Bureau Manager, Division of Occupational & Professional Licensing