HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 957 Hearing Aid Consultations and Sales
SPONSOR(S): Professions & Public Health Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Professions & Public Health Subcommittee		Guzzo	McElroy

SUMMARY ANALYSIS

A person who is not able to hear as well as someone with normal hearing, hearing thresholds of 20 decibels or better in both ears, has hearing loss. In the United States, approximately 15% of adults (37.5 million) report some difficulty hearing and 29 million adults could benefit from hearing aids. In 2019, there were 372,111 people with a hearing disability in Florida.

The Board of Speech-Language Pathology & Audiology within the Department of Health (DOH) is responsible for licensing, monitoring, disciplining and educating audiologists. The practice of audiology includes the application of principles, methods, and procedures for the prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, treatment, and research, relative to hearing and the disorders of hearing.

The Board of Hearing Aid Specialists within DOH is responsible for licensing, monitoring, disciplining and educating hearing aid specialists. A licensed hearing aid specialist may practice the dispensing of hearing aids, which includes: conducting and interpreting hearing tests for purposes of selecting suitable hearing aids; making ear molds or ear impressions; providing appropriate counseling; and all acts pertaining to the selling, renting, leasing, pricing, delivery, and warranty of hearing aids.

Audiologists and hearing aid specialists are authorized to conduct and interpret hearing tests and to dispense hearing aids if necessary. Both audiologists and hearing aid specialists are authorized to utilize telehealth to provide audiology services. However, current law prohibits any person from selling or distributing hearing aids through the mail to the ultimate consumer. A violation of the mailing prohibition constitutes a second-degree misdemeanor which is punishable by up to 60 days imprisonment and carries a fine of up to $500. This creates a barrier for audiologists and hearing aid specialists to utilize telehealth to provide audiology services.

PCS for HB 957 repeals sections of law, s. 468.1265, F.S., and s. 484.054, F.S., that prohibit individuals from selling or distributing hearing aids through the mail to the ultimate consumer. This removes a key barrier for audiologists and hearing aid specialists to utilize telehealth to provide audiology services to individuals with hearing loss.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Hearing Loss

A person who is not able to hear as well as someone with normal hearing – hearing thresholds of 20 decibels or better in both ears – is said to have hearing loss.[1] There are four types of hearing loss:[2]

- **Conductive Hearing Loss** – Occurs when something prevents sounds from getting through the outer or middle ear.
- **Sensorineural Hearing Loss** - Occurs when there is a problem in the way the inner ear or hearing nerve works.
- **Mixed Hearing Loss** - Hearing loss that includes both a conductive and a sensorineural hearing loss.
- **Auditory Neuropathy Spectrum Disorder** - Hearing loss that occurs when sound enters the ear normally, but because of damage to the inner ear or the hearing nerve, sound is not organized in a way that the brain can understand.

In the United States, approximately 15% of adults (37.5 million) report some difficulty hearing and 29 million adults could benefit from hearing aids.[3] In 2019, there were 372,111 people with a hearing disability in Florida.[4]

Audiologists

The Board of Speech-Language Pathology & Audiology within the Department of Health (DOH) is responsible for licensing, monitoring, disciplining and educating audiologists.[5] The practice of audiology includes the application of principles, methods, and procedures for the prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, treatment, and research, relative to hearing and the disorders of hearing.

In addition to conducting and interpreting hearing tests and dispensing hearing aids a licensed audiologist may also:[6]

- Offer, render, plan, direct, conduct, consult, or supervise certain services to individuals who have or are suspected of having hearing disorders, including:
  - Identification;
  - Evaluation;
  - Treatment;
  - Consultation;
  - Habilitation;

[1] World Health Organization, *Deafness and Hearing Loss,* Mar. 2, 2021, available at https://www.who.int/news-room/fact-sheets/detail/deafness-and-hearing-loss (last visited Mar. 29, 2021). "Disabling hearing loss" refers to hearing loss greater than 35 decibels in the better hearing ear.
[2] Centers for Disease Control and Prevention, *Types of Hearing Loss*, available at https://www.cdc.gov/ncbddd/hearingloss/types.html (last visited on March 30, 2021).
[3] United States Department of Health and Human Services, National Institute of Deafness and Other Communication Disorders, *Quick Statistics About Hearing*, available at https://www.nidcd.nih.gov/health/statistics/quick-statistics-hearing (last visited on March 30, 2021). A hearing aid is a small electronic device that goes in or behind an individual's ear to make sounds louder so the person can listen, communicate, and participate more fully in daily activities.
[4] Florida Department of Health – FLHealthCHARTS Community Health Assessment Resource Tool Set, *Census Population Under 18 with Hearing Disability, Census Population 18-64 with Hearing Disability, Hearing Disability 65-74, and Hearing Disability 75+*, available at http://www.flhealthcharts.com/charts/SearchResult.aspx (last visited Mar. 29, 2021).
[5] S. 468.1185, F.S.
[6] S. 468.1125(6)(b), F.S.

    - Rehabilitation;
    - Instruction; and
    - Research.
- Participate in hearing conservation, evaluation of noise environments, and noise control.
- Habilitate and rehabilitate, including, but not limited to, hearing aid evaluation, prescription, preparation, fitting, assistive listening device selection and orientation, auditory training, aural habilitation and rehabilitation, speech conservation, and speechreading;
- Fabricate ear molds;
- Evaluate tinnitus; and
- Provide speech and language screening, limited to a pass/fail determination for identifying individuals with disorders of communication.

Audiologists are required to follow certain minimum procedures and conduct certain tests when fitting a patient for a hearing aid, including:[7]

- Pure tone audiometric testing by air and bone to determine the type and degree of hearing deficiency when indicated;
- Effective masking when indicated; and
- Appropriate testing to determine speech reception thresholds, speech discrimination scores, the most comfortable listening levels, uncomfortable loudness levels, and the selection of the best fitting arrangement for maximum hearing aid benefit when indicated.

All audiometric tests must be conducted in a testing room that has been certified by DOH not to exceed certain sound pressure levels and specified frequencies.[8] An audiologist is required to perform a final fitting for a patient to ensure the physical and operational comfort of the hearing aid when indicated.[9]

Hearing Aid Specialists

The Board of Hearing Aid Specialists within DOH is responsible for licensing, monitoring, disciplining and educating hearing aid specialists. A licensed hearing aid specialist may practice the dispensing of hearing aids, which includes:[10]

- Conducting and interpreting hearing tests for purposes of selecting suitable hearing aids.
- Making ear molds or ear impressions;
- Providing appropriate counseling; and
- All acts pertaining to the selling, renting, leasing, pricing, delivery, and warranty of hearing aids.

Hearing aid specialists are required to follow certain minimum procedures and conduct certain tests when fitting a patient for a hearing aid, including:[11]

- Pure tone audiometric testing by air and bone to determine the type and degree of hearing deficiency;
- Effective masking when indicated; and
- Appropriate testing to determine speech reception thresholds, speech discrimination scores, the most comfortable listening levels, uncomfortable loudness levels, and the selection of the best fitting arrangement for maximum hearing aid benefit.

All audiometric tests must be conducted in a testing room that has been certified by DOH not to exceed certain sound pressure levels and specified frequencies.[12] A hearing aid specialist is required to perform a final fitting for a patient to ensure the physical and operational comfort of the hearing aid.[13]

[7] S. 468.1225(1), F.S.
[8] S. 468.1225(6), F.S.
[9] S. 468.1225(3), F.S.
[10] S. 484.045, F.S.
[11] S. 484.0501(1), F.S.
[12] S. 484.0501(6), F.S.
[13] S. 484.0501(3), F.S.

Telehealth for Audiologists and Hearing Aid Specialists

Florida licensed and Florida registered out-of-state audiologists and hearing aid specialists are authorized to utilize telehealth to provide audiology services.[14] However, current law prohibits any person from selling or distributing hearing aids through the mail to the ultimate consumer.[15] A violation of the mailing prohibition constitutes a second-degree misdemeanor which is punishable by up to 60 days imprisonment and carries a fine of up to $500.[16] This creates a barrier for audiologists and hearing aid specialists to utilize telehealth to provide audiology services.

Effect of the Bill

PCS for HB 957 repeals the sections of law, s. 468.1265, F.S., and s. 484.054, F.S., that prohibit individuals from selling or distributing hearing aids through the mail to the ultimate consumer. This removes a key barrier for audiologists and hearing aid specialists to utilize telehealth to provide audiology services to individuals with hearing loss.

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Repeals ss. 468.1265 and 484.054, F.S.
Section 2: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is possible that allowing audiologists and hearing aid specialists to sell and distribute hearing aids through the mail will result in an indeterminate increase in their sales and revenue.

D. FISCAL COMMENTS:

None.

[14] S. 456.47(1)(b), F.S.
[15] SS. 468.1265, F.S., and 484.054, F.S.
[16] Id., and ss. 775.082(4)(b), F.S., and 775.083(1)(e), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The PCS does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No rule-making authority is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES