



March 10, 2025

The Honorable Chair Joseline A. Pena-Melnyk
House & Government Operations (HGO) Committee
241 House Office Building
Annapolis, Maryland 21401

Re: **HB 1298** - Practice of Audiology - Definition
Position: **FAVORABLE**

Madam Chair Pena-Melnyk, Vice Chair Cullison, and Committee Members,

Thank you Delegate Martinez for your sponsorship and the HGO Committee's overwhelming support of HB 464 in 2024. I am a licensed practicing audiologist for over 26 years and am a small business co-owner of one of the largest and oldest private practices in the State of Maryland. I am here in strong support for HB 1298.

We have an opportunity to build on the 2024 progress with HB 1298 to ensure patient access and affordability and prevent penalties to audiologists by continuing to set an example for the multiple other states who are modernizing their practice of audiology Statutes, including Arkansas who successfully passed clean legislation in the Senate earlier this week.

Audiologists are mandatory providers of **Medicare Advantage (MA) plans**, administered by third-party payors- including Blue Cross and United Healthcare (UHC). Medicare has threatened for years to include mandatory health screenings in Advantage plans, and UHC already references that all plans have preventative screenings. If audiologists are not explicitly permitted to perform healthcare screenings by Statute, they risk financial penalties on all claims in a calendar year. The clause "third-party payors" is crucial in HB 1298 for this very reason.

Medicare Advantage plans are health insurance plans administered by private insurance companies (third-party payors) and Maryland audiologists must participate in the programs. Medicare Advantage serves as an alternative to traditional Medicare (Medicare, Part B) and often includes additional benefits including prescription drug coverage, vision benefits, and fitness programs. The MA plans require beneficiaries to use providers and hospitals in their network to get the lowest

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costs, similar to a Health Maintenance Organization (HMO) and Preferred Provider Organization (PPO). The federal government pays the third-party payor a set amount to provide care for the beneficiaries and the third party payor assumes the remainder of the cost for the beneficiaries' coverage, if any.

In 2015, the Maryland Academy of Audiology (MAA) contacted the Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists, and Music Therapists (BoE) asking the legality of audiologists completing the Medicare's Physician Quality Reporting System (PQRS) mandatory screening procedures. The PQRS system aimed to improve clinical care and reduce healthcare costs by promoting more consistent and compressive quality reporting. Exhibit A announces and Exhibit B documents in the official Board of Examiners minutes the counsel's decision that health screenings were within the scope of practice for audiologists. After confirming audiologists could legally conduct health screenings and report to PQRS, the profession was consistently in the top group of positive reporters.

The transition to Merit-based Incentive Payment System (MIPS) in 2017, as part of the Medicare Access and CHIP Reauthorization Act (MACRA) streamlined and replaced these previous programs. MIPS combined the reporting components of PQRS, the Value-Based Payment Modifier (VM), and the Meaningful Use program (focused on health IT use) into a single, more comprehensive evaluation system. In the new system, audiologists and other eligible providers are assessed based on a variety of performance categories instead of just reporting specific quality measures, as under PQRI and PQRS:

- Quality,
- Cost,
- Improvement Activities, and
- Promoting Interoperability.

This represents a broader shift towards value-based care, with a focus on providers improving patient outcomes, reducing unnecessary costs, and adopting advanced healthcare technologies.

The Merit-Based Incentive Payment System (MIPS) is part of the Quality Payment Program (QPP) under the Centers for Medicare & Medicaid Services (CMS). It affects how healthcare providers are reimbursed for all services provided to Medicare patients, based on performance in four-key areas:

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- Quality- replacing PQRS, this measures healthcare outcomes and processes,
- Promoting Interoperability – replacing Meaningful Use, this focuses on electronic health records (EHRs),
- Improvement Activities- encouraging care coordination, patient engagement, and safety, and
- Cost- evaluating resource use and efficiency.

Due to the original Medicare Statute,¹ audiologists are mandatory Medicare providers, as either participating or non-participating providers. Therefore, all audiologists across the United States are subject to MIPS and a variety of screening requirements, including Screening for Depression and Follow-Up Plan, Elder Maltreatment Screen and Follow-Up Plan, Tobacco Use: Screening and Cessation Intervention, Unhealthy Alcohol Use: Screening and Brief Counseling, Screening for Social Drivers of Health, and Connection to Community Service Provider.

Third party payors administer MA plans, which may currently use MIPS-related quality measures, or require their own quality valued-based care reporting requirements for reimbursement and provider incentives. Third party payors administering the MA plan can incentivize or penalize their network providers as they establish in participating provider contracts. **Therefore, audiologists can't afford to be penalized by not fulfilling the private contract provisions, such as health screenings.**

Performing health screenings required by federal, state, or third party payors would not change a provider's scope of practice. Health screenings are typically pass/fail procedures and often administered by a provider's assistants as they do not yield a diagnosis. A positive health screening requires a referral to an expert for further evaluation, diagnosis and treatment, if applicable. A provider can choose to administer health screenings as required by federal, state, and third party payors; however, audiologists need the ability to make the decision to administer health screenings based on their need for reimbursement incentives or penalties, and not be restricted due to vague Statute language.

If the Committee wishes to look at alternative language, the MAA would suggest a review of the language provided by Mr. Gene Ransom of MedChi. The MAA agreed to accept Mr. Ransom's language that should be in a separate section of the bill and the MAA believes this suggested language assists ENTs in their business model, also.

¹ <https://www.cms.gov/medicare/payment/fee-schedules/physician/audiology-services>

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MedChi suggested language:

"NOTHING IN THIS SECTION SHALL PRECLUDE AN AUDIOLOGIST FROM PERFORMING HEALTH SCREENINGS MANDATED BY THIRD-PARTY PAYORS, NOR SHALL AN INSURER OR THIRD-PARTY PAYOR DENY PAYMENT FOR ANY MANDATED HEALTH SCREENINGS OR RELATED SERVICES."

If the committee wishes to review other language, the MAA would offer this language that accomplishes basically the same purpose. Health Occupations (H.O.) Section 1-208(a)(3)² is the definition of a third party payor. In this option, the phrase third party payor is not as obvious, alleviating the concerns of giving third party payors more oversight and input into scope, as stated during the Senate hearing from the MedChi lobbyist testifying.

“(i) The conducting of health screenings RELATED TO AUDITORY OR VESTIBULAR CONDITIONS OR REQUIRED BY FEDERAL, STATE, OR [THIRD-PARTY PAYERS] ANY ENTITY AS DEFINED IN THE HEALTH OCCUPATIONS ARTICLE 1-208(A)(3);”

The Practice of Audiology Statute must include clear and precise language to ensure that audiologists are not penalized for participating in third party payor networks while providing audiologic and vestibular services. Explicitly including the term "third party payors" reaffirms that audiologists are authorized to conduct the health screenings required by MA plans and any future requirements for individuals under 65 years of age.

Thank you for your time and consideration. I ask for a favorable report for HB 1298.

Sincerely,

A handwritten signature in black ink that reads "Briana Bruno Holtan".

Briana Bruno Holtan, Au.D.
Doctor of Audiology
Maryland License #00919

² https://mgaleg.maryland.gov/2023RS/Statute_Web/gho/gho.pdf

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Announcements

- **PQRS for Audiologists**

The Centers for Medicare & Medicaid Services (CMS) is a unit of the United States' Department of Health & Human Services. Physicians Quality Reporting System (PQRS) promotes reporting of quality information for covered services that are provided to original Medicare Part B Fee-for-service beneficiaries. CMS issues eligible measures reporting information and screening protocols for PQRS annually. Audiologists have been required to report to the CMS since its inception in 2009.

Licensed audiologists in Maryland have raised concerns on whether or not recently amended

CMS-determined screening protocols are within the scope of practice for audiologists in Maryland.

The Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists ("the Board") has determined that a licensed audiologist may perform the screening protocols as required by PQRS as health care *screenings* are not a scope of practice matter since screenings do not require diagnosis, only referral to an appropriate healthcare provider.

As a best practice, the Board encourages licensed audiologists to seek additional training in the area of the eligible measures to ensure ongoing compliance with CMS screening protocols.

For more information regarding PQRS please visit the CMS webpage for guidance:

<https://www.cms.gov/medicare/quality-initiatives-patient-assessment-instruments/pqrs/measurescodes.html>

Board responses to concerns and inquiries are intended for guidance purposes only. As these positions do not necessarily reflect a discussion of all material considerations required to reach the conclusions stated, they are not intended to be rules, regulations or official statements of the Board. Accordingly, due to their highly informal nature, these responses are not considered binding upon the Board and should not be relied on as definitive.

- **Renewal for Licenses Expiring May 31, 2016**

Renewal notices were mailed in late March 2016 to individuals with a license expiring on May 31, 2016. The Board will issue e-mail reminders issued after the online renewal system is open.

Continuing education audit notices for SLPs were issued in **January 2016**.

Continuing education audit notices for AUDs and SLP-As were issued in **late March 2016**.

Do not send continuing education documentation to the Board unless instructed to do so as part of an audit.

- **Suspicion of Child Abuse/Neglect - Health Care Providers Are Mandated Reporters**

The Maryland Family Law Article requires health care practitioners to report suspicion of child abuse and child neglect. To report abuse:

In Baltimore City call the police at 911 or Child Protective Services at 410-361-2235;

In Baltimore County call Child Protective Services at 410-853-3000;

In all other counties call 800-332-6347.

- **ASHA Certification Not Required For Medicare Billing**

The U.S. Department of Health & Human Services has determined that a licensed speech-language pathologist does not need to be certified by the American Speech-Language Hearing Association to be eligible to bill for Medicare. The U.S. Department of Health & Human Services is review all federal regulations to ensure that no confusion exists regarding this topic. This Board has nor jurisdiction in billing matters unless fraud has been committed. Accordingly, any questions and need for clarification regarding Medicare billing and ASHA certification should be directed to the U.S. Department of Health & Human Services and ASHA.

- **MDResponds**

MDResponds is a a web-based system where licensed health care professionals in Maryland can volunteer to assist in the aftermath of a disaster, emergency, public health crisis or with other public health needs. MDResponds is administered by the Department of Health and Mental Hygiene, Office of Preparedness and Response.

More information about [MDResponds](#).

- **FDA Consumer Warning - Simply Thick**

The FDA has issued a warning to consumers regarding the use of Simply Thick - this information is also of interest to speech-language pathologists that may have patients that use Simply Thick. Read the [FDA's warning to consumers](#).

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The regular session meeting of the Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists was held on March 17, 2016 in Room 110 of the DHMH Metro Executive Building, 4201 Patterson Avenue, Baltimore, Maryland. Mr. John Sloan called the meeting to order at 4:26 p.m. Present for the quorum were Ms. Lisa Melody, Mr. John Rouse, Mr. George Sheckells, Ms. Billie Jo O'Donovan, Ms. Ellen Stein, Ms. Joan Dawson, and Dr. Charlotte Godfrey.

Staff Present

Anthony DaFranco, AAG, Board Counsel
Christopher Kelter, Executive Director
Danielle Vallone, Board Investigator
Yolanda Campbell, Office Secretary III

Absent Members

Dr. Scott London
Mr. Kirk Payne
Dr. Stacey Samuels Cole

Agenda Approval

Ms. O'Donovan made a motion to approve the agenda. Mr. Sheckells seconded the motion. Vote unanimous.

Minutes Review and Approval for February 18, 2016

Minutes amended to include Ms. Lisa Melody as being present for the quorum. Ms. Stein made a motion to approve the amended minutes. Mr. Sheckells seconded the motion. Vote unanimous.

Regulatory Review

Official Transcript and Name/Address/E-mail Change Notification Requirements

Mr. Kelter reported that the proposal has been sent to the Department. Mr. Kelter reported that the Governor's Office had issued a notice regarding a moratorium of sorts on laws and regulations imposing new fees. Mr. Kelter reported that a fine is not a fee and would continue to monitor the progress of the proposal.

2016 Legislative Session

SB 109- Health Occupation Boards/ Criminal History Record Checks – Required

Mr. Kelter reported that the bill had been voted out of the Committee and the Full Senate and was assigned to House Health & Government Operations Committee which will hear the bill on March 24, 2016.

Dr. Ronald Kaplan arrived and resumed Chair

SB 1083 – Secretaries of Principal Departments – Supervision and Review of Decisions and Actions by Units within Department

Education, Health and Environmental Affairs Committee – March 16, 2016 and there had not been a vote on the bill yet.

Executive Director's Report

2016 AUD, SLP, and SLP-A Renewal – Update

Mr. Kelter reported that nearly all tasks were completed to ensure an efficient and trouble-free renewal process for all eligible renewal candidates. Mr. Kelter advised that March 25, 2016 was the estimated opening of the online renewal system.

SLP Continuing Education Audit – a) Random b) Voluntary

Mr. Kelter reported that 179 of the 210 random audits had been completed and that 8 individuals indicated that they were electing the non-renew/inactive status and would not be submitted continuing education documentation. Mr. Kelter reported that 64 of the 93 Voluntary Audits had been completed with a number of the incomplete Voluntary Audits from individuals making a second or greater request for an extension of time to complete the continuing education requirements to renew a license that expires on May 31, 2016.

Office of Legislative Audits – Review

Mr. Kelter reported that the information technology component of the audit had concluded, but that the fiscal audit portion was on-going.

Mid-Atlantic Expo – March 17-18, 2016

Mr. Kelter reported that he would attend the Mid-Atlantic Expo and attend the Friday session.

2015 Financial Disclosure Filings – State Ethics Commission

Mr. Kelter reported that 2015 financial disclosures would be due by May 15, 2016.

Board Membership Update

Mr. Kelter reported that there was no new news regarding ENT, audiology and speech appointments. Mr. Kelter reported that Kim Bennardi was allowing The Hearing Society of Maryland, Washington DC and Delaware extra time past the deadline to put a list of nominees together.

Telehealth/Telepractice Subcommittee – Update

Mr. Kelter reported that he was working on collecting materials for a review of the Board's current telehealth/telepractice regulations. Mr. Kelter reported that other boards were conducting the same review of existing regulations or promulgation of new regulations concerning telehealth/telepractice.

Newsletter – Draft

Mr. Kelter reported that he was making progress on a newsletter that would cover topics for all individuals licensed by the Board.

July 2016 Board Meeting

Mr. Kelter indicated that he would not be able to attend a scheduled board meeting on July 21, 2016. Mr. Kelter proposed scheduling a meeting in August 2016. After discussion it was determined that everyone was available for a meeting on August 18, 2016 and a meeting would be held on that day.

Treasurer's Report – John Sloan

Mr. Sloan reported that for the month of February the Board has available funds in the amount of \$142,813.00.

Statistical Report Ending February 29, 2016

The Board reviewed the Statistical Report in the Board packet.

Required PQRS Measures for Audiology

Mr. Kelter presented language concerning the federally required PQRS measures for audiology to be posted to the Board's website and to be e-mailed to all licensed audiologists. The language makes it clear that the PQRS measures and the screenings required by the measures are not a scope of practice issue.

Reinstatement Requirements

Mr. Kelter reported that he would be revising the form utilized for reinstatement and that the form would include a declaration that the reinstatement candidate was/was not practicing without a valid license.

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Adjournment

The Board voted unanimously to adjourn the regular session meeting pursuant to Maryland State Government Article, 10-508(a) Annotated Code of Maryland. The regular session meeting was adjourned at 4:58 p.m.

Respectfully submitted,

Ronald Kaplan, Au.D.
Chair