

# Licensing Division

Staff Report for the Hearing Instrument Fitters and Dispensers  
Advisory Board  
August 25, 2021

## Personnel Updates

## Statistics

### HEARING INSTRUMENTS FITTERS AND DISPENSERS

	<b>TOTAL FY2020</b>	<b>1<sup>ST</sup> Quarter FY2021</b>	<b>2<sup>ND</sup> Quarter FY2021</b>	<b>3<sup>RD</sup> Quarter FY2021</b>
New Licenses Issued	44	9	8	9
Renewed Licenses Issued	282	94	90	80
Online Renewals	96	87	89	80
% Renewed Online	34%	93%	99%	100%
<b>Total Population</b>	686	688	682	690

### APPRENTICE PERMIT

	<b>TOTAL FY2020</b>	<b>1<sup>ST</sup> Quarter FY2021</b>	<b>2<sup>ND</sup> Quarter FY2021</b>	<b>3<sup>RD</sup> Quarter FY2021</b>
New Licenses Issued	40	11	5	14
Renewed Licenses Issued	4	2	3	1
<b>Total Population</b>	43	42	44	44

## TEMPORARY TRAINING PERMIT

	<b>TOTAL FY2020</b>	<b>1<sup>ST</sup> Quarter FY2021</b>	<b>2<sup>ND</sup> Quarter FY2021</b>	<b>3<sup>RD</sup> Quarter FY2021</b>
New Licenses Issued	65	25	17	23
Renewed Licenses Issued	51	10	5	9
<b>Total Population</b>	110	121	119	112

### Emergency License Extension Update:

For the emergency extension we are making sure our licensees aware of the following:

- Under this emergency authorization, if license expired between August 1, 2020 and September 18, 2021, you will still be able to work for up to 120 days after your expiration date while your renewal is being processed. If TDLR makes a final determination that your renewal application is denied, you will no longer be able to work under the emergency license.
- Due to COVID-19, TDLR is facing an unprecedented challenge with processing paper renewals and applications. **We strongly encourage everyone who can renew online to take advantage of this option.** TDLR's online renewal portal accepts all major credit cards, including MasterCard and Visa branded gift cards.
- We are working as quickly as possible to process all payments that are included with your application. Please be advised that stopping payment through your financial institution will delay and/or stop your application from processing.

We are referring customers to the website for their extension information and to check for any updates.

# Customer Service

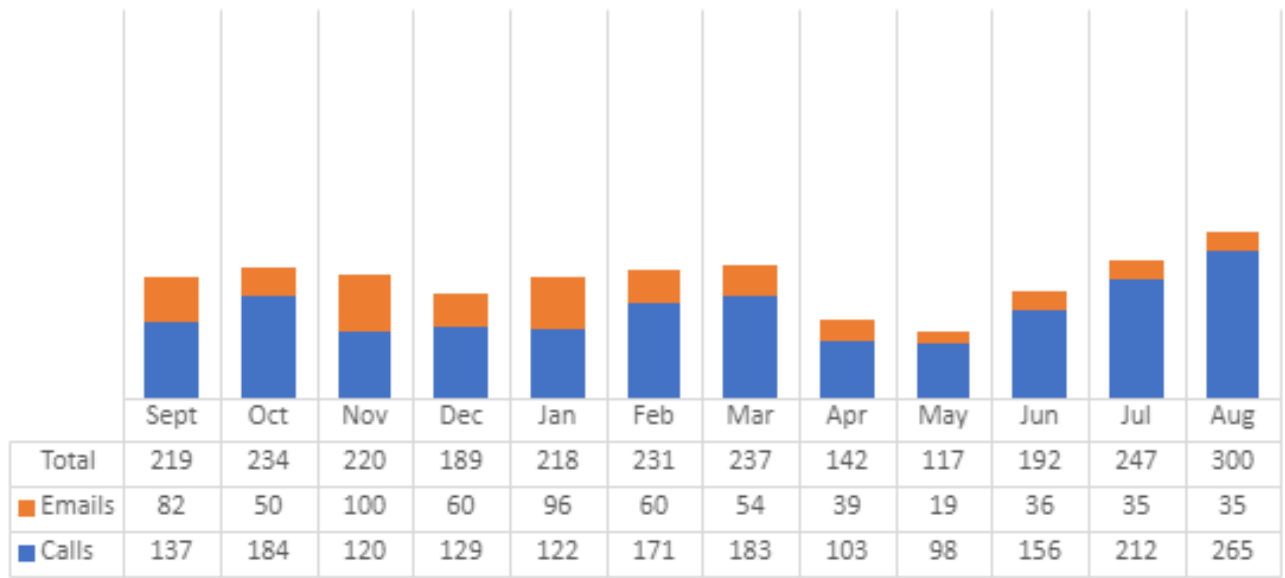
## Staff Report for Hearing Instrument Fitters and Dispensers Advisory Board – 08/25/2021

### Personnel Update

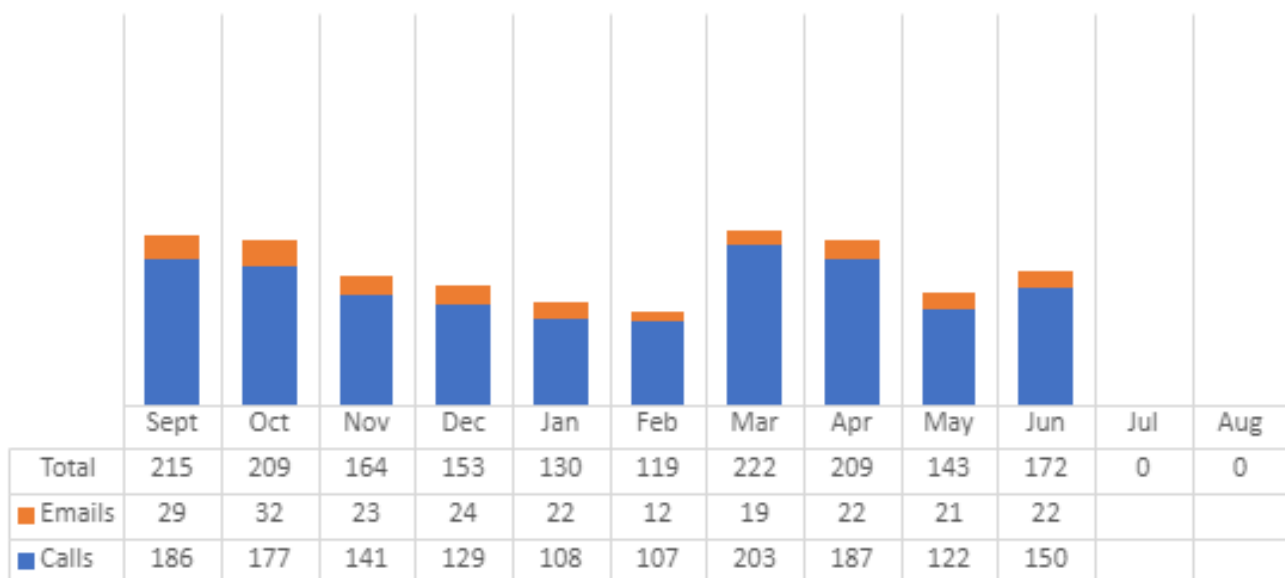
- After 15 years of service to TDLR, our Director of Customer Service Trey Seals has moved on to pursue other endeavors and we wish him the very best in his pursuits. The impact that he has had on the division and the agency cannot be overstated and we will miss him. Tuan Nguyen, who began working in the Customer Service Division in 2014, is the new Customer Service Director. He officially started his new role on August 16<sup>th</sup>.
- Customer Service Quality Training and Performance Analyst Steven Huynh has accepted a position with TDLR's Office of Process and Project Management (OPPM). Because of his impressive commitment to developing onboard training as the agency grew with more and more programs, and because of his dedication in helping develop more sophisticated and detailed reports, we are excited to see the value he will add to the OPPM team's projects.
- The Customer Service Division is currently hiring for a Quality Training and Performance Analyst and eight Customer Service Representative positions.

## Statistics

### HEARING FITTERS CUSTOMER SERVICE CONTACTS FISCAL YEAR 2020



### HEARING FITTERS CUSTOMER SERVICE CONTACTS FISCAL YEAR 2021



# Enforcement Division

## Staff Report for the Hearing Instrument Fitters and Dispensers

### Advisory Board

August 25, 2021

#### Personnel Updates:

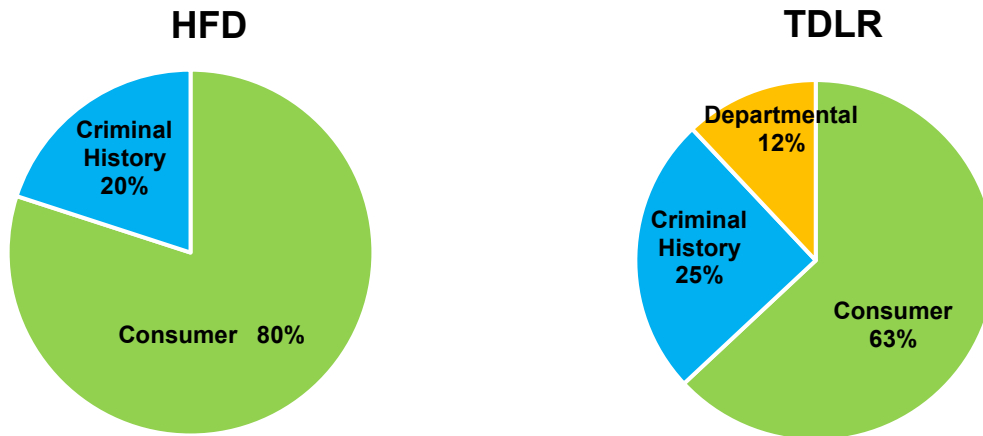
- Three attorneys, Sara McKinney, Rachel Seshan, and Hunter McKinley were hired as Attorney II positions to fill the vacancies created by promotions in the Enforcement Division. These three attorneys will be working our inspections cases and our unlicensed air conditioning and electrical cases. Their hiring's were effective April 15, 2021.
- On August 1, 2021, Cynthia Marple was hired as an Attorney III. She joins TDLR from the Department of Public Safety's office of Regulatory Counsel Division where she prosecuted compliance and enforcement cases. Cynthia is a member of the Transportation Team, which focuses on cases related to Tow, Vehicle Storage Facilities, Driver's Education and Motor Fuels.

#### Statistics Fiscal Year 2021:

Shown below are the Enforcement Performance Measures and key statistics for the Hearing Instrument Fitters and Dispensers (HFD) program and for all TDLR programs combined through June of **Fiscal Year 2021**:

Key Statistic	HFD	TDLR
Cases opened	10	8,146
Cases closed	29	7,734
Average time to close (days)	221.52	204.79
% of cases resolved within 6 months	41.38%	60.58%
% of cases resulting in disciplinary action	0.00%	14.61%
Cases pending at end of June 2021	8	6,260

## Source of cases opened through June of Fiscal Year 2021



Case Outcomes	HFD	TDLR
Commission Orders	0	33
Default Orders	0	417
Agreed Orders	0	649
Penalties Assessed	\$0.0	\$2,376,591.00
Penalties Collected	\$0.0	\$1,028,246.00
Licenses Revoked (Disciplinary)	0	86
Licenses Suspended	0	7
Licenses Denied/Revoked (Criminal History)	0	210
Cease & Desist Orders	0	19
Informally Resolved	29	6,508

## HFD Alleged Violations at Opening through June of Fiscal Year 2021

<b>Alleged Violation:</b>	<b>Count</b>
Late, incorrect or no refund	4
False, misleading & deceptive advertising	2
Criminal History	2
Unlicensed	1
Unethical conduct	1
Employed unlicensed or expired license	1
Records violation	1

## HFD Violations Resulting in Disciplinary Action through June of Fiscal Year 2021

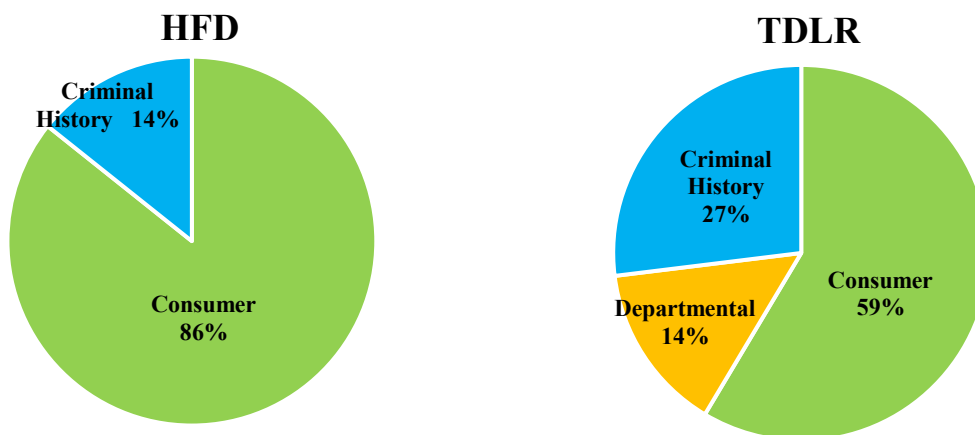
<b>Violation:</b>	<b>Count</b>
N/A	

## Statistics Fiscal Year 2020:

Shown below are the Enforcement Performance Measures and key statistics for the Hearing Instrument Fitters and Dispensers (HFD) program and for all TDLR programs combined for **Fiscal Year 2020**:

Key Statistic	HFD	TDLR
Cases opened	35	10,465
Cases closed	12	9,763
Average time to close (days)	106.08	157.58
% of cases resolved within 6 months	66.67%	68.64%
% of cases resulting in disciplinary action	16.67%	13.48%
Cases pending at end of FY2020	27	5,850

### Source of cases opened for Fiscal Year 2020



### Case Outcomes

Case Outcomes	HFD	TDLR
Commission Orders	0	28
Default Orders	0	339
Agreed Orders	0	853
Penalties Assessed	\$0.0	\$2,360,451.00
Penalties Collected	\$0.0	\$1,296,792.16
Licenses Revoked (Disciplinary)	0	62
Licenses Suspended	0	3
Licenses Denied/Revoked (Criminal History)	2	240
Cease & Desist Orders	0	46
Informally Resolved	10	8,364



## HFD Alleged Violations at Opening for Fiscal Year 2020

<b>Alleged Violation:</b>	<b>Count</b>
False, misleading & deceptive advertising	12
Unprofessional conduct	8
Criminal History	5
Late, incorrect or no refund	5
Lacks honesty, trustworthiness, and integrity	3
Expired license	2
Records violation	1
Unethical conduct	1
Unlicensed	1

## HFD Violations Resulting in Disciplinary Action for Fiscal Year 2020

<b>Violation:</b>	<b>Count</b>
Criminal History	2

## Case Highlights

### **HFD201900168600 – Rocky Anderson**

On or about December 16, 2005, the Respondent was issued a Hearing Instrument Fitters and Dispensers License. The Respondent last renewed this license on December 4, 2017, with December 31, 2019, as its next possible renewal date.

But on August 16, 2019, the Respondent was imprisoned after being convicted of a federal felony. Specifically, the Respondent and his father, Terry Williams, were both convicted of defrauding the federal Medicare program of 27 million dollars, with most of the fraud in the form of orders for hearing aids falsely submitted as Medicare claims on behalf of clients who neither wanted nor needed these devices.

Tex. Occ. Code §53.021(b) provides that a license holder's license shall be revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

The Texas Attorney General has interpreted Tex. Occ. Code § 53.021(b) to mean that “. . . a licensed felon who is imprisoned or whose community supervision, parole, or mandatory supervision is revoked loses his or her license by operation of law. Although the relevant licensing authority has a duty to revoke the license . . . the fact that the licensing authority does not do so does not alter the revocation. . .” Thus, the Attorney General concluded that the Legislature, in enacting Tex. Occ. Code § 53.021(b), intended that no person may simultaneously be imprisoned and still hold an occupational license.

After the Department learned of the Respondent's imprisonment, and acting in reliance on the Attorney General's opinion, on January 24, 2021, the Department notified the Respondent his Hearing Instrument Fitters and Dispensers license was revoked by operation of law, effective August 16, 2021, i.e., the date of the Respondent's imprisonment in a federal penitentiary. After the Respondent completes his seven-year sentence, he will be able to re-apply for a new Hearing Instrument Fitters and Dispensers license but cannot to renew his pre-existing license, as it was extinguished by his conviction.

### **HFD20190016829 – Terry Anderson**

On or about February 14, 1994, the Respondent was issued a Hearing Instrument Fitters and Dispensers License. The Respondent last renewed this license on June 19, 2019, but a subsequent criminal history check showed the Respondent's license had already been revoked by operation of law and could not be renewed, due to the Respondent's imprisonment on a felony conviction.

Specifically, on August 16, 2016, both the Respondent and his son, Rocky Williams, were both convicted of defrauding the federal Medicare program of 27 million dollars, with most of the fraud in the form of orders for hearing aids falsely submitted as Medicare claims on behalf of clients who neither wanted nor needed these devices.

Tex. Occ. Code §53.021(b) provides that a license holder's license shall be

revoked on the license holder's imprisonment following a felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

The Texas Attorney General has interpreted Tex. Occ. Code §53.021(b) to mean that “. . . a licensed felon who is imprisoned or whose community supervision, parole, or mandatory supervision is revoked loses his or her license by operation of law. Although the relevant licensing authority has a duty to revoke the license . . . the fact that the licensing authority does not do so does not alter the revocation. . .” Thus, the Attorney General concluded that the Legislature, in enacting Tex. Occ. Code §53.021(b), intended that no person may simultaneously be imprisoned and still hold an occupational license.

After the Department learned of the Respondent's imprisonment, and acting in reliance on the Attorney General's opinion, on January 24, 2021, the Department notified the Respondent his Hearing Instrument Fitters and Dispensers license was revoked by operation of law, effective August 16, 2021, i.e., the date of Respondent's imprisonment in a federal penitentiary. After the Respondent completes his eight-year sentence, he will be able to re-apply for a new Hearing Instrument Fitters and Dispensers license but cannot to renew his pre-existing license, as it was extinguished by his conviction.



## Education and Examination Division

### Staff Report for Hearing Instrument Fitters and Dispensers, August 25<sup>th</sup>, 2021

#### Statistics

#### Practical Examination Statistics

(As of June 30<sup>th</sup>, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
PASS	27	0	0	27	0	29	1	30	0	0	44	44	0	0	0	0	101
FAIL	6	0	0	6	0	8	1	9	0	0	5	5	0	0	0	0	20
TOTAL	33	0	0	33	0	37	2	39	0	0	49	49	0	0	0	0	121
RATE	81.8%	0.0%	0.0%	81.8%	0.00%	78.4%	50.0%	76.9%	0.0%	0.0%	89.8%	89.8%	0.00%	0.00%	0.00%	0.00%	83.5%

FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN*	JUL	AUG	Q4*	TOT
PASS	31	13*	12*	56		44		44			0	0					100
FAIL	9	4*	4*	17		7		7			0	0					24
TOTAL	40	17*	16*	73		51		51			0	0					124
RATE	77.5%	76.5%	75.0%	76.7%		86.3%		86.3%			0.00%	0.00%					80.6%

**Examinations are only offered or administered in September, October\*, November\* (Q1), January (Q2), and May (Q3)**

\*Houston session was postponed from September 21<sup>st</sup> – October 26<sup>th</sup>, 2019.

\*Additional examination dates were added in Dallas on November 16<sup>th</sup>, 2019.

**Practical Examination Portion Statistics**  
(As of June 30<sup>th</sup>, 2021)

FY 2020					FY2021				
<b>September</b>					<b>September</b>				
<b>1<sup>st</sup> Quarter</b>					<b>1<sup>st</sup> Quarter</b>				
Examination Portion	Pass	Fail	Total	Rate	Examination Portion	Pass	Fail	Total	Rate
Practical – Audiometric	15	6	21	71.43%	Practical-Audiometric	12	5	17	70.59%
Practical – Ear Impression	16	3	19	84.21%	Practical-Ear Impression	15	1	16	93.75%
<b>Total</b>	<b>31</b>	<b>9</b>	<b>40</b>	<b>77.50%</b>	<b>Total</b>	<b>27</b>	<b>6</b>	<b>33</b>	<b>81.82%</b>
<b>January</b>					<b>January</b>				
<b>2<sup>nd</sup> Quarter</b>					<b>2<sup>nd</sup> Quarter</b>				
Examination Portion	Pass	Fail	Total	Rate	Examination Portion	Pass	Fail	Total	Rate
Practical – Audiometric	23	5	28	82.14%	Practical-Audiometric	12	7	19	63.16%
Practical – Ear Impression	21	2	23	91.30%	Practical-Ear Impression	17	1	18	94.44%
<b>Total</b>	<b>44</b>	<b>7</b>	<b>51</b>	<b>86.27%</b>	<b>Total</b>	<b>29</b>	<b>8</b>	<b>37</b>	<b>78.38%</b>
<b>May</b>					<b>May</b>				
<b>3<sup>rd</sup> Quarter</b>					<b>3<sup>rd</sup> Quarter</b>				
Examination Portion	Pass	Fail	total	Rate	Examination Portion	Pass	Fail	Total	Rate
Practical-Audiometric	0	0	0	0.00%	Practical-Audiometric	22	4	26	84.62%
Practical-Ear Impression	0	0	0	0.00%	Practical-Ear Impression	22	1	23	95.65%
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>	<b>Total</b>	<b>44</b>	<b>5</b>	<b>49</b>	<b>89.80%</b>
<b>*June</b>					<b>June*</b>				
<b>4<sup>th</sup> Quarter</b>					<b>4<sup>th</sup> Quarter</b>				
Examination Portion	Pass	Fail	Total	Rate	Examination Portion	Pass	Fail	Total	Rate
Practical-Audiometric	0	0	0	0.00%	Practical-Audiometric	0	0	0	0.00%
Practical-Ear Impression	0	0	0	0.00%	Practical-Ear Impression	0	0	0	0.00%
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.00%</b>	<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>
<b>Examinations are offered or administered only in:</b>					<b>Examinations are offered or administered only in:</b>				
<ul style="list-style-type: none"> <li>September, October, November (1<sup>st</sup> Quarter)</li> <li>January (2<sup>nd</sup> Quarter)</li> <li>May (3<sup>rd</sup> Quarter)</li> <li>June (4<sup>th</sup> Quarter)*</li> </ul>					<ul style="list-style-type: none"> <li>September, October, November (1<sup>st</sup> Quarter)</li> <li>January (2<sup>nd</sup> Quarter)</li> <li>May (3<sup>rd</sup> Quarter)</li> <li>June (4<sup>th</sup> Quarter)*</li> </ul>				

## Continuing Education Statistics

(As of June 30<sup>th</sup>, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
New Provider Registrations Issued	0	0	0	0	0	0	0	0	0	0	0	0	0	-	-	0	0
Provider Renewal Licenses Issued	0	0	0	0	0	0	0	0	0	3	1	4	0	-	-	4	4
Total Provider License Count (End of Month)	14	11	11	11	12	12	12	12	9	9	10	10	10	-	-	10	10

JANUARY 1 <sup>ST</sup> – DECEMBER 31 <sup>ST</sup> , 2021	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOT
Total New Course Approvals Issued	43	10	13	11	35	12	-	-	-	-	-	-	124
*Total Course Count (End of Month)	43	53	66	77	112	124	-	-	-	-	-	-	124
<b>*COURSE COUNT RESETS JANUARY 1<sup>ST</sup> OF EACH CALENDAR YEAR</b>													

FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
New Provider Registrations Issued	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Provider Renewal Licenses Issued	0	3	0	3	0	0	1	1	3	1	0	4	0	0	0	0	8
Total Provider License Count (End of Month)	20	21	21	21	21	21	20	20	21	18	18	18	17	15	15	15	15

JANUARY 1 <sup>ST</sup> – DECEMBER 31 <sup>ST</sup> , 2020	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOT
Total New Course Approvals Issued	67	91	21	35	27	4	38	7	3	15	53	46	407
*Total Course Count (End of Month)	108	199	220	255	282	286	324	331	334	349	402	448	448
<b>*COURSE COUNT RESETS JANUARY 1<sup>ST</sup> OF EACH CALENDAR YEAR</b>													

## Jurisprudence Examination Statistics

(As Of June 30<sup>th</sup>, 2021)

FY 2021	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Jurisprudence Examinations Completed	3	4	2	9	4	3	5	12	8	2	2	12	13	-	-	13	46
FY 2020	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Jurisprudence Examinations Completed	6	3	8	17	5	2	5	12	1	1	2	4	3	7	0	10	43

# Regulatory Program Management

## Staff Report for Hearing Instrument Fitters and Dispensers – August 25, 2021

### **Personnel Updates**

The Medical and Health Professions Section has two new staff members. Angela Sanders and Shawn O’Neal joined our section on February 1, 2021. Angela has worked for TDLR since 2017 and Shawn has been with TDLR since 2005. We are happy to welcome them to our team and look forward to working with them.

### **Current Projects**

The TDLR Health Occupations Annual Report was submitted to the Chairs of the House Licensing and Administrative Procedures Committee, House Public Health Committee, Senate Business and Commerce Committee and Senate Health and Human Services Committee on Feb 1. The report is statutorily required and contains programmatic license and complaint data. The report was emailed to advisory board members earlier in February. It is also available on the TDLR webpage under Agency Reports.

Staff have been working on rule review projects for six of the Medical and Health Profession programs. Program rule reviews occur every four years.

Staff have been working on bill implementation teams to implement statutory changes from the 87<sup>th</sup> Regular Legislative Session.

Staff have been assisting TDLR’s Office of General Counsel with emergency draft rules related to emergency waivers granted by the Office of the Governor.

Staff have been involved in the development of the new Texas Licensing System.

MHP staff, Stewart Myrick and Steve Uecker, continue to work with the Texas Division of Emergency Management’s State Operations Center as TDLR liaisons and health professions subject matter experts in support of the state’s COVID-19 pandemic response. These duties are being performed remotely.

### **Outreach**

Outreach has been limited due to conference cancelations related to the COVID-19 pandemic. RPM staff look forward to attending the next Texas Hearing Aid Association Convention in June 2022.