

Title 17 Professions, Occupations, and Businesses
Subtitle 3. Medical Professions
Chapter 84 Hearing Instrument Dispensers

17-84-101. Definitions.

As used in this chapter:

- (1)** "Board" means the Arkansas Board of Hearing Instrument Dispensers;
- (2)** "Current" means valid, effective, unexpired, or unsuspended and unrevoked with reference to a license or internship;
- (3)** "Established place of business" means a place of business at a permanent address in the State of Arkansas or, if outside the state, within seventy-five (75) miles of the Arkansas state line, which is open to the public during normal business hours at least thirty-two (32) hours per week;
- (4)** "Hearing instrument" means any instrument or device worn in or behind the ear designed for or represented as aiding, improving, amplifying, or correcting human hearing and any parts, attachments, or accessories of such an instrument or device;
- (5)** "In-office assembled hearing instrument" means an instrument built by the hearing instrument dispenser or under his or her supervision from components, including a premanufactured faceplate and a shell made by the dispenser or made under his or her supervision;
- (6)** "License" and "internship" mean, respectively, license as provided for in §17-84-306 and internship as provided for in § 17-84-304;
- (7)** "Licensed" means holding a current license;
- (8)** "Practice of dispensing hearing instruments" means conducting and interpreting hearing tests for purposes of identifying the type and degree of hearing loss and making proper recommendations based on those results, selecting suitable hearing instruments, making earmolds or ear impressions, and providing appropriate counseling pertaining to the selling, renting, leasing, pricing, delivery, and warranty of hearing instruments;
- (9)** "Sponsor" means a licensed person who trains and directly supervises an intern; and
- (10)** "Unethical conduct" includes, but is not limited to:
 - (A)** Obtaining any fee or making any sale by fraud or misrepresentation;
 - (B)** Employing directly or indirectly any unlicensed person to perform any work covered by this chapter;
 - (C)** Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other

representation, however made, that is misleading or untruthful;

(D) Advertising a particular model, type, or kind of hearing instrument for sale when prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type, or kind if the purpose of the advertisement is to obtain prospects for the sale of a model, type, or kind other than that advertised;

(E) Falsely representing that the services or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing instruments or using the words "doctor", "audiologist", or "clinic" or like words, abbreviations, or symbols that suggest the medical profession when such use is not accurate;

(F) Permitting another to use the holder's license or internship certificate;

(G) In any manner making false representations concerning a competitor or his or her products, business methods, selling prices, values, credit terms, policies, services, reliability, ability to perform contracts, credit standing, integrity, or morals;

(H) In any manner using, imitating, or simulating the trademark, trade name, corporate name, brand, model name, or number or label of any competitor, manufacturer, or product when it implies or represents a relationship that does not exist;

(I) Obtaining information concerning the business of a competitor by bribery of any employee or agent of the competitor, by the impersonation of one in authority, or by any other unfair or deceptive means; and

(J) Directly or indirectly giving or offering to give anything of value to any person who advises others in a professional capacity as an inducement to influence others to purchase products sold by a hearing instrument dispenser or to refrain from dealing with a competitor.

17-84-102. Applicability and construction.

(a) This chapter shall not apply to an audiologist who is licensed under the provisions of the Licensure Act of Speech-Language Pathologists and Audiologists, § 17-100-101 et seq., or to any person while engaged in the practice of recommending hearing instruments as part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public charitable institution or nonprofit organization which is primarily supported by voluntary contributions.

(b) This chapter shall not be construed to prohibit any doctor who holds a valid license issued by the Arkansas State Medical Board and specializes in otology or otolaryngology from treating or fitting hearing instruments to the human ear or to prohibit any corporation, partnership, trust, association, or other like organization from engaging in the business of fitting and selling hearing instruments at retail, if it employs only natural persons licensed under this chapter in the direct fitting and sale of such products.

17-84-103. Penalty — Injunction.

(a) Any person convicted of violating any provision of this chapter shall be guilty of a Class B misdemeanor.

(b) Any violation of the provisions of this chapter may be enjoined by the circuit courts of this state.

17-84-104. Bills of sale and instruction booklets.

(a) Whether supplied by the dispenser or at the dispenser's order or direction, any person who practices the dispensing of hearing instruments shall deliver to each person supplied with a hearing instrument a bill of sale or comparable document containing the following:

(1) The dispenser's signature;

(2) The address and telephone number of the dispenser's established place of business;

(3) The number of the dispenser's license;

(4) A description of the make, model, serial number, and condition of the hearing instrument stating whether it is new, used, rebuilt, or in-office assembled, identifying the manufacturer, rebuilder, or in-office assembler, together with a description of any warranties covering the instrument;

(5) The amount charged;

(6) Information concerning when additional service for the hearing instrument will be available and where the additional service for the hearing instrument will be available; and

(7) Conditions of additional charges for additional service, including without limitation a testing fee, programming fee, adjustment fee, and other services provided by the dispenser.

(b) The dispenser of an in-office assembled hearing instrument shall deliver to the person supplied with the in-office assembled hearing instrument an instruction booklet for the in-office assembled hearing instrument.

(c) The Arkansas Board of Hearing Instrument Dispensers may require by rule a dispenser to provide instructions to a person supplied with a hearing instrument on how to file a complaint.

17-84-201. Creation and composition.

(a) There is created the Arkansas Board of Hearing Instrument Dispensers.

(b) The board shall be composed of seven (7) members appointed by the Governor, subject

to confirmation by the Senate, for terms of three (3) years, and one (1) nonvoting advisory member appointed by the Governor for a term of three (3) years as follows:

(1) (A) At least four (4) of the members shall be hearing instrument dispensers licensed under this chapter who have held a valid license for at least three (3) years.

(B) The Governor shall consult the Arkansas Hearing Society, Inc., before making an appointment under subdivision (b)(1)(A) of this section;

(2) At least one (1) member shall be an audiologist holding a master's degree or doctoral degree in audiology from a recognized college or university;

(3) (A) Two (2) members shall be appointed from the state at large to represent consumers.

(B) The consumer representative under subdivision (b)(3)(A) of this section shall not be actively engaged in or retired from the practice of dispensing hearing instruments.

(C) The consumer representatives under subdivision (b)(3)(A) of this section shall be full voting members but shall not participate in the grading of examinations; and

(4) (A) The advisory member shall be a physician licensed to practice medicine in Arkansas and specializing in otology or otolaryngology.

(B) The advisory member shall not count for or against the board's quorum requirement to conduct business.

(c) (1) All terms shall expire on July 31 of the designated year.

(2) Each member shall serve for the term of his or her appointment and until his or her successor has been appointed and qualified.

(3) No member shall serve more than three (3) full terms consecutively.

(d) In the event of a vacancy on the board, a new member shall be appointed to serve out the unexpired term.

(e) The Governor may remove any member for cause.

17-84-202. Organization and proceedings.

(a) (1) The Arkansas Board of Hearing Instrument Dispensers shall meet at least two (2) times a year at times and places to be designated by the board and upon such notice as the board may prescribe.

(2) The board shall elect a chair, vice chair, and secretary-treasurer annually, each to serve in his or her respective capacity for one (1) year.

(b) (1) A majority of the members of the board, when properly convened, may conduct business of the board.

(2) The board may appoint one (1) or more of its members or any other person it

deems appropriate as examiners for the purpose of hearing evidence, reporting findings thereon, and making recommendation to the entire board for a decision on any matter over which the board has authority.

(c) The board shall keep a record of all of its proceedings and transactions and shall annually make a report to the Secretary of the Department of Health showing all receipts and disbursements and a summary of all business transacted during the year.

17-84-203. Powers and duties.

The powers and duties of the Arkansas Board of Hearing Instrument Dispensers are:

(1) To authorize all disbursements necessary to carry out the provisions of this chapter and to receive and account for all fees;

(2) To furnish a list of study materials for applicants to use in preparing for qualifying examinations;

(3) To ensure that at least one (1) time each year a qualifying examination based on nationally accepted norms to test the knowledge and proficiency of applicants is administered;

(4) To register, issue, and renew licenses and internships to persons qualified under this chapter and to suspend, revoke, or refuse to renew licenses and internships pursuant to this chapter;

(5) To make rules not inconsistent with the laws of this state that are necessary for the enforcement and orderly administration of this chapter. However, no rule shall be promulgated that in any manner serves to restrict the number of licenses that may be issued in any city, town, or county of this state;

(6) (A) To require the periodic inspection and calibration of audiometric testing equipment and tympanometers and to carry out the periodic inspection of facilities of persons who practice the fitting or selling of hearing instruments.

(B) The board may inspect an established place of business during regular hours of operation;

(7) To employ and retain the services of attorneys, accountants, and other necessary assistants in carrying out the provisions of this chapter;

(8) To require, if the board deems necessary, an applicant, dealer, or licensee to furnish a surety bond in an amount fixed by the board for the benefit of any person damaged as the result of a violation of this chapter. All requirements pertaining to the surety bond may be promulgated by rule of the board;

(9) To set the following fees:

(A) An application fee not to exceed two hundred fifty dollars (\$250);

(B) An examination fee not to exceed:

(i) Three hundred dollars (\$300) for the written examination; and

(ii) Fifty dollars (\$50.00) each for the earmold practicum, the audiometric practicum, and the law and rules practicum;

(C) A reexamination fee not to exceed the fee under subdivision (9)(B) of this section for the portion of the examination being retaken;

(D) A permanent registration fee not to exceed seventy-five dollars (\$75.00);

(E) An annual license fee not to exceed two hundred fifty dollars (\$250);

(F) A late penalty of ten percent (10%) of the annual license fee if paid within thirty (30) days after expiration;

(G) A license reinstatement fee of one and one-half (1 ½) times the annual license fee, if the renewal fee is not paid within the thirty-day grace period;

(H) An internship fee not to exceed two hundred fifty dollars (\$250);

(I) A fee for an endorsement to another state not to exceed twenty dollars (\$20.00);

(J) A license replacement fee or a duplicate license fee not to exceed twenty-five dollars (\$25.00);

(K) An insufficient funds fee not to exceed twenty-five dollars (\$25.00); and

(L) A continuing education unit approval fee not to exceed two hundred fifty dollars (\$250);

(10) (A) To request the use of Department of Health investigators, issue subpoenas, and perform all activities necessary to effectively investigate claims and pursue disciplinary action against licensees.

(B) The board may inspect or may authorize the Department of Health investigators to inspect an established place of business during regular hours of operation; and

(11) To establish the standards of practice for hearing instrument dispensers in the State of Arkansas.

17-84-204. Disposition of funds — Compensation of members.

(a) (1) Fees collected by the Arkansas Board of Hearing Instrument Dispensers shall be used to pay expenses in administering this chapter.

(2) All moneys shall be received, disbursed, and accounted for by the Secretary-treasurer of the Arkansas Board of Hearing Instrument Dispensers or a person designated by the

board who shall be bonded at the expense of the board.

(3) All moneys not expended by the board to pay expenses in administering this chapter shall be retained by the board from year to year to be expended for the purposes expressed in this chapter.

(b) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

17-84-301. Application of administrative procedure act.

The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall apply to the authority and procedures of the Arkansas Board of Hearing Instrument Dispensers in exercising control over licensing under this chapter.

17-84-302. License or internship certificate required.

No person shall engage in the sale of hearing instruments or display a sign or in any other way advertise or hold himself or herself out as a person who practices the dispensing of hearing instruments unless he or she is licensed under this chapter or is the holder of an internship as provided for in § 17-84-304 and has his or her license or internship certificate conspicuously posted in his or her office or place of business.

17-84-303. Unlawful practices.

It shall be unlawful for any person to:

- (1)** Sell or purchase a license or permit in a manner not authorized by this chapter;
- (2)** Willfully alter, with the intent to defraud, any license or permit;
- (3)** Represent as a valid license or permit one which has been purchased, fraudulently obtained, counterfeited, or materially altered; or
- (4)** Willfully make a false material statement in any application to the Arkansas Board of Hearing Instrument Dispensers.

17-84-304. Qualifications for licensure and internship.

(a) An applicant for a license by examination or for an internship shall:

- (1)** Submit an application on the form and within the time prescribed by the Arkansas Board of Hearing Instrument Dispensers;

(2) Pay an application fee in the amount prescribed by the board; and

(3) Show to the satisfaction of the Arkansas Board of Hearing Instrument Dispensers that he or she:

(A) Is twenty (20) years of age or older; and

(B) Has an education equivalent of two (2) or more years of accredited college-level course work from a regionally accredited college or university.

(b) An applicant who meets the qualifications set out in subsection (a) of this section shall meet at least one (1) of the following criteria:

(1) (A) Complete a valid one-year employment internship during which he or she is under the direct personal and physical supervision of a sponsor who has continuously held in good standing for a period of not less than three (3) years either a valid Arkansas hearing instrument dispenser's license or a valid Arkansas audiology license.

(B) The board shall determine by rule what constitutes a valid one-year employment internship;

(2) Hold a National Board for Certification in Hearing Instrument Sciences certificate;

(3) Be registered as a hearing instrument dispenser in good standing in another state whose licensing requirements meet or exceed the licensing requirements of the State of Arkansas at the time of his or her application;

(4) Be a graduate of an American Conference of Audioprosthology program; or

(5) Hold an Associate of Applied Science degree in Hearing Healthcare Practitioner or a similar degree from a regionally accredited college or university.

(c) Before the beginning of the internship period, the applicant shall:

(1) Receive board approval of the application and training schedule; and

(2) Pay the internship fee prescribed by the board under this chapter.

(d) (1) A person participating in a valid internship program as determined by the board under subdivision (b)(1)(B) of this section may take the licensing examination, written or practicum, or both, upon written recommendation of his or her sponsor after successfully completing six (6) months in the internship program.

(2) If the person successfully passes the examination, he or she may complete the one-year internship program under the oversight of the sponsor without direct personal and physical supervision if he or she works out of the same place of business as the sponsor.

(3) If the person fails any part of the examination, he or she shall complete the full one-

year internship before reexamination.

(4) (A) Any examination taken during an internship shall be considered as one (1) of three (3) attempts to pass the examination allowed under § 17-84-305(d).

(B) After three (3) failed attempts to pass the examination allowed under § 17-84-305(d), the person shall repeat the internship application.

(5) It is a violation of this chapter for any person during the course of his or her internship to practice the dispensing of hearing instruments except under:

(A) The direct personal and physical supervision of his or her sponsor; or

(B) The conditions set out in this subsection.

17-84-305. Examinations.

(a) The examination provided for in § 17-84-304 shall be given at least one (1) time each year.

(b) The examination may be written or practical, or both, and shall consist of tests of knowledge in the following areas as they pertain to the fitting of hearing instruments:

(1) Basic physics of sound;

(2) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders;

(3) Structure and function of hearing instruments;

(4) Pure tone audiometry, including air conduction testing and bone conduction testing;

(5) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;

(6) Effective masking;

(7) Recording and evaluation of audiograms and speech audiometry to determine hearing instrument candidacy;

(8) Selection and adaptation of hearing instruments;

(9) Taking earmold impressions;

(10) Tympanometry; and

(11) Testing of other knowledge and skills as may be required to determine an applicant's ability and suitability for the practice of dispensing hearing instruments to the

public.

(c) The tests under this section shall not include questions requiring a medical or surgical education.

(d) (1) Applicants who fail to pass the required examination may retake the examination by paying a reexamination fee, as prescribed by the board pursuant to this chapter, for each additional examination taken.

(2) After three (3) failed attempts to pass the examination, the applicant shall complete an internship or repeat the internship described in § 17-84-304.

17-84-306. Issuance and renewal.

(a) Upon payment of a permanent registration fee and an annual license fee as prescribed by the Arkansas Board of Hearing Instrument Dispensers pursuant to this chapter, the board shall register and issue licenses to applicants who have fulfilled the requirements of this chapter.

(b) All licenses shall expire on the date or dates set by the board, and all licenses shall be renewed annually.

(c) (1) The fee for renewal of a license as prescribed by the board pursuant to this chapter shall be paid before the expiration of the license.

(2) (A) Failure to make the payment before the expiration date of the license shall result in the payment of the license renewal fee plus a late penalty as prescribed by the board pursuant to this chapter if paid within thirty (30) days after expiration.

(B) If the renewal fee is not paid within the thirty-day grace period, the board shall renew the license upon payment of the required fee as prescribed by the board pursuant to this chapter and satisfaction of all other requirements contained in this chapter for the renewal of the license.

(C) If the license renewal fee or other requirements for license renewal under this chapter, or both, are delinquent by at least sixty (60) days, the licensee shall be reexamined before the renewal of the license.

(d) (1) The board shall require that all applicants seeking renewal of their licenses shall:

(A) Show proof of attending during the preceding year a minimum of twelve (12) hours of board-approved continuing education in the methods and techniques of testing for and fitting hearing instruments, including at least one (1) hour of ethics;

(B) Present written evidence of annual calibration of all audiometers and tympanometers to current national standards; and

(C) Provide a blank copy of the currently used bill of sale or comparable document

provided to patients under § 17-84-104.

(2) The board shall require that all new applicants and all applicants seeking renewal of their licenses state whether they are engaged in the practice of dispensing in-office assembled hearing instruments.

17-84-307. [Repealed.]

17-84-308. Suspension, revocation, nonissuance, or nonrenewal.

(a) The Arkansas Board of Hearing Instrument Dispensers may suspend, revoke, or refuse to issue or renew the license or internship of any person for any of the following causes:

- (1) Being convicted of a crime listed under § 17-3-102;
- (2) Securing a license or internship under this chapter through fraud or deceit;
- (3) Unethical conduct, gross ignorance, or inefficiency in the conduct of his or her practice;
- (4) Using a false name or an alias in his or her practice;
- (5) Violation of any provision of this chapter; or
- (6) Failure to comply with any of the requirements for issuance of the license or internship.

(b) In addition to acting against a license or internship or in lieu of acting against a license or internship, the board may fine the individual in an amount not to exceed two thousand dollars (\$2,000) for each offense.

(c) The board may dismiss any complaint or charges which it finds to be unfounded or trivial. The board may settle any complaint or charges without holding a hearing.

17-84-309. Notification and use of business address.

(a) Every person who holds a license or internship shall notify the Arkansas Board of Hearing Instrument Dispensers in writing of the address of his or her established place of business and all satellite locations.

(b) Any notice required to be given by the board to a person may be given by mailing it to him or her at the address of his or her established place of business.

(c) It shall be the responsibility of every person who holds a license or internship to notify the board by certified letter of every change in his or her established place of business and all satellite locations within ten (10) days of any change.

17-84-310. Mobile units – Definition.

(a) As used in this section, "mobile unit" means a hearing instrument dispensing site that occurs at any place other than a permanent physical location.

(b) (1) A person engaging in the practice of dispensing hearing instruments as described in this chapter and by rules of the Arkansas Board of Hearing Instrument Dispensers shall notify the board thirty (30) days in advance of conducting business as a mobile unit.

(2) The notification shall include the dates of operation of the mobile unit, times of operation of the mobile unit, and locations of operation of the mobile unit.

(c) (1) A mobile unit shall meet all requirements of the board as established by rule.

(2) The board may inspect a mobile unit during regular hours of operation.

(d) (1) This section shall apply to the testing of hearing and the dispensing of hearing instruments regardless of where the service occurs.

(2) Failure to comply with this section is a violation of this chapter and subject to penalty under §§ 17-84-103 and 17-84-308.

*** Current through all acts of the Third Extraordinary Session (2022), including corrections and edits by the Arkansas Code Revision Commission. ***

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