ALABAMA BOARD OF HEARING INSTRUMENT DEALERS ADMINISTRATIVE CODE

CHAPTER 445-X-1 HEARING INSTRUMENT DEALERS

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445-X-1-.01 General.

(1) Statutory authority for adoption of rules. Under and by virtue of authority vested in it by the Legislature of the State of Alabama, and the Code of Ala. 1975, §34-14. The board does hereby adopt and promulgate this chapter.

(2) Applicability.

(a) These rules shall be applicable to all individuals and businesses who fit and sell hearing instruments under the Code of Ala. 1975, §34-14, et seq.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: **New Rule:** Filed November 17, 1994; effective December 22, 1994.

445-X-1-.02 Definitions.

(1) In addition to those definitions adopted in the Code of Ala. 1975, §34-14-1, et seq. the following definitions apply in connection with these rules.

(a) "Board" means the Board of Hearing Instrument Dealers.

(b) "Business" means any corporation, partnership, trust, association, or other legal business venture not acting as a sole individual.

(c) "Hearing Aid Dispenser, Apprentice, Hearing Aid Specialist" means any person licensed under these rules who undertakes to fit, test, sell, or service hearing instruments.

(d) "Hearing Aid or Hearing Instrument." Any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing.

(e) "License" means the certificate issued by the Board to individuals meeting qualifications to fit and sell hearing instruments.

(f) "May" indicates permission.

(g) "Place of Business" means the permanent street address of the office in which a licensed hearing aid dispenser, hearing aid specialist, or apprentice exercises the practices of dispensing and fitting of hearing instruments and which is the hearing aid dispenser’s base of business.

(h) "Practice of Fitting and Dispensing in Hearing Instruments" means the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing instruments. The term also includes the making of impressions for earmolds. A licensee or permit holder at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

(i) "Rules" means Alabama Administrative Code Rules.

(j) "Sell or Sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers.

(k) "Servicing" means but is not limited to modification, adaptation and repair of the hearing instrument. Servicing does not include cleaning, retubing, and battery changes.

(l) "Shall" indicates mandatory requirements.

(m) "Statement of Compliance" means a form approved by the board which businesses shall file annually with the board and which lists all licensed Alabama hearing aid dispensers, apprentices, and hearing aid specialist directly or indirectly employed by them and which certifies compliance with rules and regulations of the board and Code of Ala. 1975, §34-14, et seq.

(n) "Apprentice Permit" means the certificate issued while the applicant is in training or is qualifying to become a licensed hearing aid specialist.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: **New Rule:** Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed July 12, 2016; effective August 26, 2016. **Amended:** Published March 31, 2020; effective May 15, 2020.

445-X-1-.03 Licensing And Administration.

(1) Qualifications for Licensure.

(a) In addition to meeting all other requirements of the licensure examination and of the rules, the applicant shall complete an application, on forms prescribed by the board, and shall meet the following requirements:

1. Be a minimum of 19 years of age.

2. Be of good moral character.

3. Have a minimum of a high school diploma or a GED.

4. Be free of any contagious or infectious disease.

5. Be a citizen or have status as a legal alien.

(2) Types of License.

(a) A hearing aid dispenser license shall be effective for a period beginning January 1, or from date of issue, and ending January 30 on the succeeding year.

(b) Apprentice Permit. Any individual meeting requirements specified in 445-X-1-.03 and has completed the International Institute for Hearing instrument Studies distance learning program may apply to the board for an apprentice permit.

1. An apprentice permit shall be effective for a period of one year from date of issue. An apprentice permit may be renewed for an additional year, provided that the permit holder has sat and failed the hearing aid specialist's examination during the first initial permit period. An applicant may not be issued a second permit certificate within a five-year period following the expiration date of the initial permit.

2. Any individual applying for an apprentice permit shall provide proof of sponsorship by an active, licensed Alabama hearing aid dispenser with an established

business address, and proof of completion of the International Institute for Hearing Instrument Studies (IIHIS) Distance learning program.

(i) The sponsor shall have been licensed for a minimum of one year.

(ii) A licensed hearing aid dispenser shall not sponsor more than 4 apprentices at any given time.

The sponsor shall provide guidance and supervision to adequately prepare an apprentice permitted individual to perform as a fully licensed hearing aid dispenser or designated hearing aid specialist. The sponsor shall provide direct supervision and immediate observation of the apprentice permeate to fit, select, dispense, or service a hearing instrument. After completion of IIHIS Distance Learning program and practical instructions, the apprentice may perform the functions of a hearing aid specialist, but only under the direct supervision and physical observation of a licensed hearing aid dispenser, or hearing aid specialist when specifically designated by the hearing aid dispenser. The hearing aid dispenser or designated hearing aid specialist shall review and give final approval to work performed by the apprentice including all audiometric results. The hearing aid dispenser or designated hearing aid specialist must review and approve all ear impressions, and orders for hearing aids and earmolds before submission to the manufacturer. The hearing aid dispenser or designated hearing aid specialist shall be physically present at the time the hearing aid(s) is delivered to the client.

(iii) The sponsor shall be responsible for all sales and service of the apprentice permeate.

(3) Withdrawal of Sponsorship.

(a) The sponsor may withdraw from the agreement upon providing a maximum of 10 days written notification to the apprentice and to the board. At that time the sponsor shall surrender the apprentice permit to the board.

(b) It shall be the apprentice permittee's responsibility to provide proof of sponsorship by another qualified licensee. The board shall forward the apprentice permit to the new sponsor. Failure to provide proof of sponsorship shall result in suspension of the apprentice permit.

(c) The apprentice permit holder may request transfer to another sponsor, upon written notification to the sponsor and to the board, and upon verification from the sponsor.

(4) All legal requirements which apply to licensees shall apply with equal force to apprentice permits and violation of any portion of these rules subjects apprentice permit holders to the same disciplinary action as licensees.

(5) Renewal of Licenses.

(a) The board shall renew an active license for each licensee who has completed the appropriate application and paid the licensure fee.

(b) After expiration of the 30-day grace period, the board may renew licenses upon payment of a reinstatement fee plus the regular renewal fee.

(c) A license may be renewed within two years of the expiration date upon payment of a reinstatement fee plus the regular renewal fee. Within the two-year renewal period, the person shall not be required to submit to any examination as a condition for renewal.

(d) Any active license which is not renewed by the end of the 30-day grace period shall become null and void, and the privilege of fitting and selling hearing instruments in Alabama becomes invalid.

(e) All licensees shall provide a current permanent business street address upon application for renewal. The address will be printed on the license. The license shall be valid only if the business street address is correct or the licensee has notified the board of any change of address within 15 days of such change.

(f) Application for renewal of a hearing aid dispenser or hearing aid specialist license or for an apprentice permit shall be denied so long as any suspension or revocation is imposed by the board, such suspension or revocation has been appealed to any court, and such suspension or revocation remains in litigation.

(6) Licensure Suspension.

(a) Any license may be suspended for violation of these rules or Alabama hearing instrument laws. A suspension of license will be contingent on proceeds in 445-X-1-.08 and with consideration of the following conditions:

1. When the board has reason to believe the operation of a hearing aid dispenser or hearing aid specialist is in violation of the law or rules.

2. When the board has reason to believe the hearing aid dispenser or hearing aid specialist or apprentice is not making specific plans or efforts to comply with the law or these rules.

3. A license may be suspended for a period not to exceed one year at which time the license will be reinstated or revoked based on action of the board.

(7) Licensure Fees.

(a) All fees shall be made payable to the Board of Hearing Instrument Dealers. Licensure fees shall not be refunded.

1. Initial application fee of two hundred fifty dollars ($250.00) is required to apply for a license with the Board.

2. Initial licensure or renewal fee is two hundred dollars ($200) for a hearing aid specialist and two hundred fifty dollars ($250) for a hearing aid dispenser.

3. Examination fee is four hundred dollars ($400).

4. Late fee (during grace period) is fifty dollars ($50) in addition to the license fee.

5. Apprentice permit fee is one hundred twenty-five dollars ($125.00).

6. Apprentice permit renewal fee is one hundred twenty-five dollars ($125.00).

7. Duplicate license fee is twenty-five ($25.00) per additional license.

8. Replacement License Fee, if original is lost or the office moves within the calendar year is twenty-five ($25).

9. Verification Fee of twenty-five ($25.00) to verify certificates of any licensed individual.

10. Reinstatement fee of two hundred ($200) is required for reinstatement of any license approved for reinstatement that is beyond the allowed grace period.

11. Late filing fee of twenty-five (25.00) for a business statement of compliance.

12. Mail list fee of twenty-five (25.00) for a list of licenses issued by the Board.

(8) Licensing.

(a) Issuance of License. The license shall be issued by the board. It shall set forth the name and business address of the dispenser, fitter, or apprentice.

1. A duplicate license shall be displayed at each business location when the licensee is operating from more than one business address.

2. Any change of address, place of business, or sponsor shall be submitted in writing to the board within 30 days after the change has occurred. Replacement certificates shall be issued by the board upon the payment of the appropriate fee.

(b) Basis for denial of license.

1. The board shall consider the following to be sufficient reason to deny a license to any person making application for or renewal of a hearing aid dispenser, or hearing aid specialist license:

(i) Falsification of any information or record required in the application for license.

(ii) Change of personal name, corporate name, charter, entity or partnership name of composition to avoid the imposition of liens or court action.

(iii) Conviction of a felony in any state for physical, mental or financial abuse of consumers or the general public within the past five years.

(iv) Revocation of a hearing aid dispenser, or hearing aid specialist license within the last five years by administrative or court action in the state of Alabama.

(v) Conviction of fraud in any state or in any federal jurisdiction within the past five years.

(vi) Failure to comply with 445-X-1-.03(3).

2. The board reserves the right to make inquiries of any other person or agency to determine whether the above reasons for denial exist.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).

History: New Rule: Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed October 11, 2001; effective November 15, 2001. **Amended:** Filed November 7, 2017; effective December 22, 2017. **Amended:** Published May 31, 2024; effective July 15, 2024.

445-X-1-.04 Examinations For Licensure.

(1) An application for examination shall be accompanied by a check or money order covering the application fee and practical examination fee. In no case, shall the examination fee be refunded.

(2) Failure to complete all forms and provide all requested information may be cause for the application to be rejected.

(3) Furnishing false information or omitting pertinent information shall be cause for denial to sit for the examination. If the applicant has been licensed before such information becomes known to the board, the license shall be subject to revocation or suspension.

(4) Examinations of applicants for licensure shall be conducted a minimum of three times a year, at such times and places as the board may direct.

(5) The examination shall consist of written, practical and state law tests as determined by the board. Test may be based on national examinations, be national examinations, or be designed and promulgated by the board.

(6) The board shall prepare and administer the practical examination to each applicant at the time and place specified for the examination. The examination must be completed within the time allotted. The board, excluding the consumer member, shall examine and grade practical examinations.

(7) The board shall be responsible for inspection and reviewing the grades of practical examinations.

(8) The applicant shall perform the tests of practical skills, within the allotted time, and under the supervision of any board member except the consumer board member.

(9) The applicant shall be notified, in writing, of the test results.

(10) Applicants may, within 30 days after the date of a state-designed exam, request a review of their examinations. The review shall be done in the presence of a monitor. The applicant may not take notes nor copy any portion of the examination.

(11) The board shall issue a license to each applicant who has been certified by the board as having passed all licensing examinations and has met all licensure requirements, and when the applicant has completed the appropriate forms and has paid the licensure fee. Such license shall be effective from the date of issue until January 30 of the succeeding year.
Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975 §34-14-11(4).
History: New Rule: Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed October 20, 2014; effective November 24, 2014. **Amended:** Filed July 12, 2016; effective August 26, 2016. **Amended:** Published March 31, 2020; effective May 15, 2020.

445-X-1-.05 Continuing Education.

(1) Each person whose qualification to hold a license for the purpose of dealing in and fitting hearing instruments is subject to Code of Ala. 1975, §34-14-1, et seq. and shall attend, or complete an approved substitute for attendance, a minimum of ten (10) hours of approved continuing professional education each calendar year.

(a) Credit shall be given only for continuing education approved by the board. Such approval shall be sought at least thirty days prior to the commencement of the continuing education course, but such credit may be given retroactively.

(b) Beginning January 1, 2022, the number of hours required means that the licensee must actually attend twenty (20) instructional hours of continuing education every two (2) years with no credit given for introductory remarks, meal breaks even when the instruction occurs during meal periods, or business meetings unless business meetings are being used as instructional opportunities by the Board. An instructional hour will in all events contain no less than sixty (60) minutes of actual instruction. Notwithstanding, annual renewals continue as per 445-X-1-.03(5) Renewal of Licenses.

(2) The following standards shall govern the approval of continuing education credits by the board.

(a) The activity's primary objective shall be to increase the professional competence of hearing instrument dealers, dispensers, and fitters. It shall not be designed primarily for those outside the profession.

(b) The activity shall deal primarily with areas necessary to the professional competence of licensees, or the professional responsibility and ethical obligations of licensees.

(c) Unless the Board gives written notice to each licensed dispenser prior to the date thereof, courses offered by the following are recognized by the Board as means of acquiring hours to meet the requirement of continuing education for license renewal provided the courses are directly related to the professional growth and development of hearing aid dispensers.

1. International Institute for Hearing Instrument Studies.

2. International Hearing Society.

3. Alabama Society of Hearing Healthcare Providers.

4. American Speech-Language-Hearing Association.

5. Alabama Speech-Language-Hearing Association.

6. American Academy of Otolaryngology, Head and Neck Surgery, Inc.

7. Alabama Academy of Audiology.

8. College courses taken for credit or through official audit or seminars sponsored by such colleges.

(d) All educational opportunities other than those offered by various state approved/sanctioned academies, societies and associations require prior approval from the Board prior to the scheduled date of such program. Applications for approval must include sponsor, date, location, subjects, scope, instructors, qualifications of instructors, and classroom hours for each subject.

(3) A hearing aid dispenser or hearing aid specialist must obtain a minimum of twenty (20) hours of continuing education. Beginning January 1, 2022, six (6) mandatory directed hours are required to be submitted as part of the two (2) year reporting cycle. Mandatory continuing education hours must include: two (2) hours must be in the medical/hearing healthcare, two (2) hours must be in jurisprudence (Alabama laws and rules) and ethics, two (2) hours must be in patient care/management. These hours must be resident in-person hours, or Board approved video/virtual live hours with no credit given for non-resident training (e-1earning or online courses). These hours must be included as part of the twenty (20) hour requirement in the two (2) year reporting period in which they are obtained. The remainder of hours may be obtained as product specific, hearing healthcare related or on the topic of practice building and may be obtained either through residence or nonresident training.

(a) Approved areas of study to satisfy the two (2) hours in the medical/hearing healthcare area are:

1. Anatomy and physiology

2. Diseases of the ear

3. Disease control

4. Otoscopy

(b) Approved areas of study to satisfy the two (2) hours in patient care/management are:

1. Audiometric Testing and Real Ear Measurements

2. Verification/Validation

3. Counseling/Rehabilitation

4. Impressions of the ear

5. Fitting/Dispensing

(c) Approved areas of study to satisfy the two (2) hours in jurisprudence must include:

1. Code of Ala. 1975, Chapter 14 Title 34 (Alabama Laws)

2. Alabama Administrative Code Chapter 445-X-1 (Alabama Rules)

3. Business and Personal Ethics and/or Contract Law and/or HIPPA

(4) The method of reporting continuing education shall be as follows:

(a) Each licensed hearing aid dispenser or hearing aid specialist shall be responsible for maintaining certificates of attendance or International Hearing Society (IHS) official transcripts (and supporting documentation as appropriate) for continuing education courses taken to satisfy the requirements for continuing education for a period of four (4) years from the date of attendance;

(b) Prior to January 30 of each, two (2) year reporting cycle, originals or official transcripts of required continuing education credit hours must be forwarded to the Alabama Board of Hearing Instrument Dealers Board for review.

(c) In the event a licensee fails to submit proper certification of completed continuing education requirements

or other documentation required for license renewal, the application will not be processed until all continuing education requirements are met.

(d) A licensee who fails to meet the continuing education requirements shall be subject to disciplinary actions by the Board. Notwithstanding, in the event of unforeseen catastrophic events, whether acts of God, societal or health crises, the Board reserves the right, as it deems necessary, to extend the deadline for any reporting cycle with proper notifications as required to the State as well as hearing aid dispensers and hearing aid specialists.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: New Rule: Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed October 20, 2014; effective November 24, 2014. **Amended:** Filed July 12, 2016; effective August 26, 2016. **Amended:** Filed October 17, 2018; effective December 1, 2018. **Amended:** Published October 29, 2021; effective December 13, 2021.

445-X-1-.06 Requirements For Businesses.

(1) Any established business with a business street address, may sell hearing instruments so long as only individuals properly licensed by the board are directly involved in fitting or selling of hearing instruments.

(2) All businesses which fit or sell hearing instruments shall submit annually, to the board, a Statement of Compliance, indicating the licensure of all hearing aid dispensers, apprentices, and hearing aid specialist employed by the business. The Statement of Compliance shall be in such form as the board directs, and must be signed by the proprietor, a general partner, or the chief executive officer of the business.

(3) All business entities which engage in fitting or selling hearing instruments shall submit a listing to the board annually of all licensed hearing aid dispensers, hearing aid specialist and apprentices directly or indirectly employed by them.

(4) Business entities shall submit the Statement of Compliance and the listing of hearing aid dispensers, hearing aid specialist and apprentices to the board not earlier than January 1 and not later than January 31 of each year.

(a) An additional written statement shall also be supplied to the board within 30 days of any changes in the roster of hearing aid dispensers, hearing aid specialist and apprentices employed by the business.

(5) Any individual or business engaging in the business of fitting or selling hearing instruments shall be equipped with proper physical facilities for conducting hearing tests and servicing hearing instruments.

(a) Proper equipment for servicing hearing instruments and testing shall be maintained and shall include audiometer, tubing, batteries, and impression material, and tools for servicing hearing instruments.

(b) Each individual or business shall maintain established business hours, which shall be clearly posted at any place of business so as to be readily visible to the public.

1. All clients shall have physical access and telephone access to the facility during all posted business hours.

2. Sufficient staff shall be available during posted business hours to adequately address client needs.

(c) Each individual or business shall maintain an established, permanent street address and telephone number which shall be completely spelled out on any business forms or cards which may be given to clients or potential clients.

(6) Any individual, corporation or business entity operating multiple locations must have a designated Hearing Aid Dispenser for each location with a physical address that fits and dispenses hearing instruments.

(a) The designated Hearing Aid Dispenser will display his or her current license at the location for consumer awareness and safety whether or not the Hearing Aid Dispenser regularly staffs that location.

(b) The designated Hearing Aid Dispenser may or may not be the supervising dispenser for any Apprentices or Hearing Aid Specialists on staff at that location, although the supervising dispenser may be the designated Hearing Aid Dispenser for the location.

(c) The designated Hearing Aid Dispenser should be noted on the Statement of Compliance submitted each year to the Hearing Instrument Dealers Board. This will be the contact person for the office should the Board not be able to reach the owner or corporate office.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: **New Rule:** Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed July 11, 2016; effective August 25, 2016. **Amended:** Filed October 17, 2018; effective December 1, 2018.

445-X-1-.07 Prohibited Acts.

(1) Individuals and businesses who present themselves to the public as hearing aid dispensers, and hearing aid specialist, shall not commit any prohibited or unethical act without being subject to civil or criminal prosecution, administrative penalties, or loss, suspension, or revocation of license.

(2) Unethical and prohibited conduct includes, but is not limited to, the following:

(a) Fraudulent, deceptive, and misleading business practices including:

1. Procurement of a license by fraud or deceit.

2. Purchasing or procuring by barter a license with intent to use as evidence of the holder's qualifications to fit, sell, or service hearing instruments.

3. Selling, bartering, or offering to sell or barter a license.

4. Altering a license without written authorization from the board.

5. Using or attempting to use a license which has been purchased, fraudulently obtained, counterfeited, or altered.

6. Willfully making a false statement on any application for, or renewal of, license.

7. Misrepresentation of goods or services as those of another.

8. Deliberately or willfully misrepresenting or creating a false impression.

9. Causing confusion or misunderstanding as to the source, sponsorship, approval, certification, or licensure of goods and services.

10. Disparaging the goods, services, or business of another by false or misleading representation of fact.

11. Failure to honor the terms of any agreement or bargain reached between a customer and any salesperson, representative, or agent of the licensee when such salesperson, representative or agent is duly authorized

to perform or enter into such bargains or agreements on behalf of the licensee.

12. Giving or receiving, directly or indirectly, or offering to give or receive compensation to or from any person who advises another in a professional capacity as an inducement to influence or have such person influence others to purchase or contract for any product sold or offered for sale by a licensee or to influence persons to refrain from dealing in the products of competitors.

13. Knowingly employing, directly or indirectly, any suspended or unlicensed person to perform any services covered by the hearing aid dispensers and hearing aid specialist law or by the rules promulgated herein.

14. Directly or indirectly giving to or receiving from any person or organization any compensation for any professional services not actually rendered.

15. Misrepresentation in the fitting, sale, or servicing of a hearing instrument.

16. Using deceptive representations or designations of geographic origin in connection with goods and services.

17. Unavailability or unwillingness to reasonably provide for service and repair of hearing instruments fitted and sold by that individual or business entity.

18. Aiding or assisting another person in violating any provision of the hearing aid, dispensers, and hearing aid specialist law or the rules promulgated herein.

19. Willfully making or filing false reports or records.

20. Representing that the service of a licensed physician will be used or made available in the fitting, adjustment, maintenance, or repair of hearing instruments when that is not true, or using the words "doctor", "audiologist", "clinician", "clinical audiologist", "licensed hearing instrument audiologist", "state licensed", "state certified", "licensed hearing aid dispenser", balance clinics or any other term, abbreviation, or symbol when it would give the impression that service is being provided by individuals awarded that degree or title, or that the individual or business is holding the appropriate certificate or license from any governmental agency when such is not the case.

21. Dispensing a hearing instrument to any person who has not been examined by a physician or given tests, as specified by the board, within the previous six months to

determine candidacy for a hearing instrument, or who has not signed a statement waiving the requirement for such examination.

22. Acceptance of funds or other valuable consideration for payment of goods or services, followed by willful failure to deliver the goods or perform the services as promised.

(b) Fraudulent, deceptive, and misleading advertising including:

1. Causing or knowingly permitting the use of advertising, which is untrue or misleading, or in any manner engaging in any activity which is deceptive.

2. Using or allowing the use of any statement or item of information which is misleading. A statement about a product or service shall be deemed to be misleading, whether or not it is literally false, if a reasonably prudent person, who does not possess any knowledge or expertise about hearing instruments, would be likely to misunderstand any fact about a product or service, and if the misunderstood fact would be material to that individual's decision to purchase or accept the product or service.

3. Causing or permitting any form of advertisement or information shall be deemed to be deceptive if the form of advertisement or information taken as a whole, and with consideration given to typography and format, as well as language, shall be such as to cause a reasonable person, not possessing special knowledge regarding hearing instruments to expect services or advantages which are not provided.

4. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or qualities that they do not have or that a person has sponsorship, approval, status affiliation or connections that he does not have.

5. Representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, second-hand or altered, provided that such distinction shall not apply to new goods which have been reconditioned, reclaimed, or repaired and such fact is provided in writing to with the purchaser.

6. Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular brand or model, if they are of another.

7. Advertising goods or services with intent not to sell them as advertised.

8. Advertising goods or services with intent not to supply reasonably expectable public demand unless the advertisement discloses a limitation of quantity.

9. Making a false or misleading statement of fact concerning the reasons for, existence of, or amounts of price reductions.

10. Knowingly making false or misleading statements of fact concerning the need for parts, replacement or repair service.

11. Advertising of any sale by falsely representing that a person is going out of business.

12. Misrepresenting that a warranty or guarantee exists, confers, or involves certain rights or remedies, or that a warranty or guarantee exists.

13. Advertising a particular model or type of hearing instrument for sale when prospective purchasers cannot purchase the advertised model or type, where the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised.

14. Advertising the price of any model or type of hearing instrument, unless the advertisement contains language similar to the following: "Hearing instruments may not meet the needs of all hearing-impaired individuals."

(c) Conviction, in any state or federal court of any crime which is a felony under Alabama law, or which is a crime involving moral turpitude under Alabama law. This shall include a plea of nolo contendere.

(d) Violation of the terms of probation for any reason.

(e) Violating regulations of the Food and Drug Administration which affect hearing instrument dealers, dispensers, and fitters.

(f) Conducting business while knowingly suffering from a contagious or infectious disease.

(g) Fitting or selling hearing instruments without a license.

(h) Failing to provide information to the board as requested, within a reasonable time frame, or materially misstating information furnished to the board.

(i) Failure to respond within 10 business days to written requests for information relating to any investigation may result in request for formal hearing, penalties, or administrative assessments against the business and/or the licensee.

(j) Failure to appear at a hearing to answer charges when required to do so by the board.

(k) Failure to pay administrative fines assessed by the board within the time specified by the board, or, if a deadline is not imposed by the board, within a reasonable time.

(l) Failure to pay court-ordered restitution to any customer of the licensee.

(m) Failure to submit or to follow a board approved plan for correcting deficiencies in continuing education.

(n) Violating any provision of the Alabama statutes regulating hearing aid dispensers and hearing aid specialist, Code of Ala. 1975, §34-14-1, et seq. or violating any provision of these rules.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: New Rule: Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed July 11, 2016; effective August 25, 2016. **Amended:** Published March 31, 2020; effective May 15, 2020.

445-X-1-.08 Investigations And Hearings.

(1) Investigations

(a) The board shall investigate alleged unethical and prohibited conduct; fraudulent, deceptive, and misleading activities; and any irregularities violating any portion of Code of Ala. 1975, §§34-14, et seq. or the rules promulgated herein.

(2) If the board shall have cause to believe that a violation occurred, or may have occurred, then the board may give notice to such persons, or arrange a conference with such persons, for the purpose of ascertaining the facts, and to arrive at a means for resolving the violation or potential violation.

(a) Such conferences shall not be governed by formal hearing procedures and may be conducted as the board deems appropriate.

(b) Where the violation or potential violation is the subject of a complaint by any individual, then the licensee who is the

subject of the complaint and the complaining individual or individuals may agree to either binding or non-binding arbitration of the complaint by the staff of the board. Such an offer of arbitration shall be made by the staff of the board before the commencement of an informal conference. If both parties agree to binding arbitration, then the decision of the board staff member, based on an informal conference, shall be final and binding on both parties. Neither party shall be permitted to appeal from the decision, nor shall the matter be considered by the board under its formal hearing provisions. If both parties agree upon non-binding arbitration, then the decision of the board staff member shall be in the form of a recommendation, which may be accepted or rejected by the parties, or which may be subject to further negotiation under the supervision of the staff member. If the parties fail to reach agreement under non-binding arbitration, then each is free to pursue any other remedies available under law or these regulations, and the board may further consider the matter under its formal hearing procedures.

(3) The board may issue an order directing any business or individual to cease and desist from engaging in any act or practice which is in violation of the law and rules.

(a) Within 30 days after date of notice to cease and desist or notice to levy an administrative penalty, the individual or business may request, in writing, a formal hearing.

1. Failure to request a hearing within 30 days shall constitute full acceptance of any order or penalty imposed.

(4) Hearings

(a) If the board determines as a result of any investigation, that the charges are sufficient to warrant a hearing, or if an individual or business shall request a hearing as a result of any cease and desist order or notice of administrative penalty, the board shall schedule a hearing.

1. Hearings shall be conducted in accordance with the Administrative Procedures Act and procedures as established and directed by the board.

(b) The board shall take all necessary and proper action to hold hearings, determine and assess penalties, or prosecute licensees as required, based on the nature of the complaint or prohibited act, and in accordance with Code of Ala. 1975, §§34-14-9, et seq., and the Administrative Procedures Act.

1. The licensee shall be notified, by mail, not less than 20 days in advance, of the time and place of the hearing.

2. The licensee may be present during the hearing and/or be represented by legal counsel.

3. The board reserves the right to issue subpoenas to insure attendance of witnesses for either party.

4. The administrative hearing officer designated by the board shall hear the case.

5. The board shall have the authority to exclude all persons during deliberation on disciplinary matters and to meet in private with a licensee and/or his legal counsel.

(c) The administrative hearing officer shall recommend any disciplinary action or penalty.

(d) The board and hearing officer shall may take into consideration the following factors in determining the appropriate disciplinary action or administrative penalty to be imposed:

1. the severity of the offense;

2. the danger to the public;

3. the number of specific offenses;

4. the actual damage, physical or otherwise, to the consumer;

5. the length of time since the date of the last violation(s);

6. the length of time the licensee has practiced his or her profession;

7. efforts of licensee to correct or stop violations or failure of the licensee to correct or stop violations;

8. related violations against a licensee in another state, including findings of guilt or innocence, penalties imposed, and penalties served;

9. the actual negligence of the licensee pertaining to any violation;

10. any other mitigating or aggravating circumstances.

(a) The board may carry out on-site inspections and investigations, pursuant to resolution of a complaint and in conjunction with determinations of violations.

An administrative penalty not to exceed $1000 may be imposed by the board for each failure to comply with orders of the board concerning each violation of law or regulation governing hearing aid dispensers, hearing aid specialist, and apprentices.

(5) The board may reprimand, suspend, limit or restrict any licensee or suspend, limit, or revoke any license as necessary to carry out the provisions of the law.

(6) The board shall issue a formal order after any hearing and shall enumerate each violation of each count of the statute or rules and the penalty imposed.

(a) When the board chooses to impose an administrative fine, the penalty shall be paid to the board within 30 days of notice of the imposition.

(b) failure to promptly pay administrative penalties may result in additional disciplinary action or rejection of licensure renewal application.

(7) Appeals

(a) The board may bring action in any circuit court in the State of Alabama to recover the amount of administrative penalties and court costs.

(b) The licensee may appeal any contested decision to the circuit court in the State of Alabama.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: **New Rule:** Filed November 17, 1994; effective December 22, 1994. **Amended:** Filed July 11, 2016; effective August 25, 2016. **Amended:** Published March 31, 2020; effective May 15, 2020.

445-X-1-.09 Consumer Protection.

(1) Any individual under the age of 18 shall not be fitted with, or sold, a hearing instrument unless he or she has been examined for any aural condition by a physician within the past 6 months.

(a) A copy of the physician's statement shall be kept in the individual's file.

(2) Any individual over the age of 18 shall be required to sign a waiver of medical evaluation if he or she has chosen not to be examined by a physician within the preceding 6 months.

(a) The original waiver shall be kept in the individual's file.

(3) Any residential solicitation shall include the "Buyer's Right to Cancel" which states "If the above agreement was solicited at your residence and you do not want the goods or services, you may cancel this agreement by delivering or mailing a notice to the seller. The notice must say that you do not want the goods or services and must be delivered or mailed before midnight of the third business day after you sign this agreement. The notice must be delivered or mailed to: (your street address)."

(4) The dispenser or dealer shall maintain all instruments used to evaluate hearing difficulties within the tolerance and within the recommended calibration schedule in accordance with the manufacturer's instructions and the American National Standards Institute and American Standards Association specifications.

(a) The dispenser or dealer shall maintain a written record of equipment calibrations including accommodations made to maintain correct tolerances.

(5) Records

(a) A file shall be established and maintained for three years on each individual fitted with and sold a hearing instrument.

(b) The file shall include a copy of the following:

1. The physician's examination or waiver.

2. Any hearing examinations done by the fitter, apprentice and/or the dispenser or dealer.

3. A copy of the bill of sale, including the right to cancel, if any, and the guarantee or warranty.

4. A complete description of the hearing instrument, including make, model, and year of manufacture, if known.

(c) Records shall be legibly written, centrally filed, and easily accessed.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: New Rule: Filed November 17, 1994; effective December 22, 1994.

445-X-1-.10 Receipts.

(1) Any individual fitted with or purchasing a hearing instrument shall be furnished with the following:

(a) A bill of sale or receipt which shall contain:

1. The licensee's name, license number or permit number, business name, and street address.

2. The make, and model, of the hearing instrument.

3. Guarantee and warranty terms.

4. Full terms and conditions of the sale; including the return policy.

5. If the hearing instrument is not new, the receipt shall be clearly marked as "used", "reconditioned", or "rebuilt". No other terms shall be used to describe a hearing instrument that is not new. The receipt shall also include warranty/guarantee terms or a statement that the item is not under warranty/guarantee.

(b) A "User's Instructional Brochure" as supplied by the manufacturer.

Author: Hearing Instrument Dealers Board
Statutory Authority: Code of Ala. 1975, §34-14-11(4).
History: **New Rule:** Filed November 17, 1994; effective December 22, 1994. **Amended:** Published May 30, 2025; effective July 14, 2025.

445-X-1-A **Appendix.**

BUSINESS STATEMENT OF COMPLIANCE

I hereby certify that the following is a comprehensive listing of all individuals directly or indirectly employed by

_____.
(NAME OF BUSINESS)

I certify that all employees, whether working full-time, part-time, salaried, or on commission; and who are involved in sales, fittings, and adjustments of hearing instruments or other related devices in the state of Alabama hold current Alabama dealers, dispensers, and fitters licenses and apprentice permits.

I further certify that all employees of

_____
(NAME OF BUSINESS)

with a permanent street address of

_____

_____

_____

are to the best of my knowledge in compliance with and agree to abide by all provisions of all laws, regulations, and rules of the state of Alabama governing the sale and fitting of hearing instruments therein.

_____
(NAME OF CEO)

_____
(SIGNATURE OF CEO)

_____
(DATE)

Sworn to and subscribed before me, this, the _____ of_____ 19____.

_____
(NOTARY PUBLIC)

_____
SIGNATURE OF NOTARY

LIST OF EMPLOYEES

Employee's Full Name	Business Address where employee is based	Current License Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
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Author:
Statutory Authority:
History: