ALABAMA BOARD OF HEARING INSTRUMENT DEALERS
ADMINISTRATIVE CODE

CHAPTER 445-X-1
HEARING INSTRUMENT DEALERS

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.