

## **BOARD OF HEARING INSTRUMENT DISPENSERS RULES AND REGULATIONS**

Pursuant to Act 197 of the Acts of Arkansas of 1969, as amended by Act 46 of 1991, Act 1342 of 1995, Act 731 of 1997, Act 592 of 1999, Act 290 of 2001, and Act 428 of 2007 the Arkansas Board of Hearing Instrument Dispensers, promulgates and adopts the following rules and regulations concerning official action by the Board in the regulation of the practice of fitting and dispensing hearing instruments in the State of Arkansas.

### **ARTICLE I. Description**

**Section 1.** The Act establishing the Arkansas Board of Hearing Instrument Dispensers provides for examination and licensing of persons who fit and dispense hearing instruments in the State of Arkansas.

**Section 2.** Information regarding this Board may be obtained by writing the Board's Executive Director at 1020 Davis Street, Conway, AR 72034.

### **ARTICLE II. Meeting of the Board**

**Section 1.** The Board shall meet at least twice a year at a time and place designated by the Chairman of the Board in his official call of such meetings. Provided, however, additional special meetings may be held, if in the discretion of the Chairman of the Board, such special meetings are necessary.

**Section 2.** Regular meetings may be called by the Chairman of the Board giving ten (10) days notice thereof. Such notice shall be in writing and shall set forth the time and place of such meeting. Special meetings of the Board may be called by the Chairman, at any reasonable time, or shall be called by the Chairman at any time upon the request of a majority of the members of the Board.

**Section 3.** Five (5) of the eight (8) members of the Board shall constitute a quorum. If a quorum is not present at the time of such called meeting, the meeting shall be adjourned to a day to be designated by the Chairman.

### **ARTICLE III. Duties and Powers of the Board**

**Section 1.** It shall be the duty of the Chairman of the Board to preside at all meetings of the Board. The Chairman shall exercise general supervision of the affairs of the Board, and shall have the usual powers of such office and any other powers and duties as the Board may direct.

**Section 2.** It shall be the duty of the Vice-Chairman to preside at any meeting at which the Chairman is unable to attend. The Vice-Chairman shall assume the duties of Chairman in case the Chairman becomes unable, for whatever reason, to handle the affairs of the Board. If neither the Chairman nor Vice-Chairman is available, the Secretary-Treasurer shall preside and/or handle the affairs of the Board.

**Section 3.** It shall be the duty of the Secretary-Treasurer, or with Board approval, the duty of the Executive Director, to keep all the minutes and records of the Board. The Secretary-Treasurer or Executive Director shall have custody of all fees received by the Board, including application fees, license fees, renewal fees, fines, penalties, and other payments, and shall be responsible for such funds, and shall make an annual report to the appropriate authorities regarding the disbursement of these funds. The Secretary-Treasurer or Executive Director shall,

with the approval of the Board, be responsible for the preparation of the annual budget of the Board. The Executive Director of the Board is covered by the Self-Insured Bond Program for Arkansas Government and Political Sub-divisions.

**Section 4.** Officers shall be elected annually at the first regular meeting held after June 30. **Section 5.** The general powers and duties of the Board are set out in Section 17-84-203 of Chapter 84 of the Arkansas Code of 1987, as amended by Act 46 of 1991, Act 1325 of 1995, Act 789 of 1997, and Act 592 of 1999.

**Section 6.** The fee schedule, as set by the Board, is as follows:

(A)	application fee	\$200.00
(B)	examination fee	\$225.00
	written	\$150.00
	ear mold	25.00
	audiometric	25.00
	law and regulations	25.00
(C)	re-examination fee	same as fee for portion repeated
(D)	internship fee	\$150.00
(E)	registration fee	\$50.00
(F)	annual license fee	\$225.00
(G)	late payment penalty (within 30 days)	10% of annual license fee
(H)	license reinstatement fee	\$300.00
(I)	endorsement to another state	\$20.00
(J)	replacement or duplicate license	\$25.00
(K)	insufficient funds	\$25.00
(L)	CEU approval	\$50.00 per CE Unit

**Section 7.** The fee set out in Section (L) of Article III(6) shall be paid by the entity or individual requesting the approval and shall be good for twelve (12) months from the date of notice from the board of approval or denial.

#### **ARTICLE IV. Forms**

All forms and other printed material necessary for the administration of this Act shall be approved by a majority of the Board.

#### **ARTICLE V. Application for License**

(A) Applications for an Arkansas hearing instrument dispensers license must be made on forms provided by the Board. Applications submitted on forms other than originals furnished by the Board will not be accepted by the Board.

(B) Application forms may be obtained by writing to the Board's Executive Director at 1020 Davis Street, Conway, AR 72034, or by calling the Executive Director at (501) 548-6146. A copy of the current statutory provisions and Board rules and regulations governing the fitting and sale of hearing instruments will be provided with the application form.

(C) All application forms must be completed in full. Incomplete applications will be returned to the applicant, and shall not be considered until all information is completed. All application forms must be accompanied by a check or money order in the amount, and covering the fees, specified on the face of the application. Appropriate fees shall be charged by the Board to any applicant whose check is returned by the bank.

(D) Completed applications must be received by the Board through the Executive

Director no later than thirty (30) days prior to the examination. Completed applications received or completed less than thirty (30) days before the examination next scheduled will not be considered for that examination, but will be considered for the following examination.

(E) Any person furnishing false information on any application shall be denied the right to take the examination, or if the applicant has been licensed before such false information is made known to the Board, such license shall be subject to suspension or revocation.

#### **ARTICLE VI. Internship Program**

(A) No person shall train or supervise an intern unless he/she has complied with the requirements of Ark. Code Ann. Section 17-84-304.

(B) No licensed hearing instrument dispenser or audiologist, qualified to act as a sponsor of an intern, shall have more than two (2) interns in the training program under his/her supervision at any one time.

(C) No intern sponsor shall knowingly allow or require any intern under his/her supervision to practice the dispensing of hearing instruments except under his/her direct, personal and physical supervision, nor knowingly allow or require such intern to work out of any office other than his/her own.

(D) Each sponsor must submit, in writing, to the Board, at the time application is submitted, an outline of the training program he/she intends to use for each intern he/she sponsors. Such training program must be approved by the Board prior to the issuance of any internship certificate. The Board may prepare and distribute model training program outlines.

(E) At the time the internship is completed and before the intern will be allowed to take the licensure examination, the sponsor must submit to the Board a written report on a form furnished by the Board, verifying under oath that the intern has successfully completed the prescribed internship program. Each sponsor must notify the Board in writing, within ten (10) days, by certified mail, of any intern who abandons his/her internship program before completed.

(F) An intern may change sponsors, for good cause shown, with the permission of the Board.

(G) Any intern who abandons his/her internship program before completion must reapply and complete a new one (1) year internship program.

(H) Any person sponsoring an intern must agree to be accountable to the Board of Hearing Instrument Dispensers in all matters concerning the internship.

#### **ARTICLE VII. Examination**

**Section 1.** The examination provided for in Ark. Code Ann. Section 17-84-304 shall be given by the Board in March, June, September and December of each year, on a date and at a location and time determined by the Board.

**Section 2.** The examination may be written or practical or both, and shall consist of the subject matter contained in Ark. Code Ann. Section 17-84-304.

**Section 3.** Once the Board receives a written recommendation by the sponsor of a person participating in a valid internship program who has successfully completed his/her first six months of the internship program, that intern may take the licensing examination at any regular test date set under Section 1 of this Article. After successfully completing six months of the internship program, each attempt by an intern to pass the licensing examination shall count

against the three (3) allowed attempts to successfully pass the licensing examination as stated in Ark. Code Ann.

Section 17-84-305(d). Before an intern who has failed the examination three times is allowed to take the examination again, he or she may be required to appear before the Board with his or her sponsor. An intern who satisfactorily passes the licensing examination during his internship program may complete the internship program under the oversight of the sponsor without personal and physical supervision if he or she works within a hearing instrument dispensing practice owned, operated or managed by the sponsor. However, every audiogram and purchase order performed by any intern must be approved, initialed and dated by his/her sponsor.

**Section 4.** The examination will include testing of the applicant's knowledge of the provisions of Ark.Code Ann. 17-84-101, et seq. and the Rules and Regulations of the Board of Hearing Instrument Dispensers.

**Section 5.** After three (3) failed attempts to pass the examination, the applicant shall complete an internship or repeat the internship described in ACA 17-84-304.

### **ARTICLE VIII. Annual License Renewal**

**Section 1.** The annual license renewal fee shall be paid by each license holder to the Executive Director on or before the expiration date of his/her current license or renewal. All such licenses shall expire on June 30 each year, unless otherwise specified by the Board, and all licenses shall be renewed annually. Responsibility for the payment of such renewal shall rest with the license holder, and if reminders of such renewal are sent by the Executive Director, it shall be as a courtesy only and shall not be deemed a responsibility of the Board.

**Section 2.** Renewal shall be judged delinquent if not postmarked before midnight of the date of expiration, and may only be renewed after that date by the payment of a penalty of ten (10%) percent of the annual renewal fee plus the annual renewal fee, if such payment is made within thirty (30) days after the date of expiration. If the renewal fee, plus penalty, is not paid within the thirty (30) day period following the date of expiration, the license shall be considered revoked for non-payment of renewal fees. Any license considered revoked for non-payment of renewal fees, shall be reinstated by the Board upon payment of the required fee as prescribed by the Board, and satisfaction of all other requirements contained in the law for the renewal of the license. If the license renewal fee is delinquent by at least sixty (60) days, the licensee shall be reexamined prior to the renewal of the license.

**Section 3.** Each licensee applying for renewal of his/her license shall furnish to the Arkansas Board of Hearing Instrument Dispensers the following:

(a) Adequate information to the Board concerning the continuing educational hearing instrument program(s), which the licensee has completed during the preceding year. All continuing education courses, including course content and presenter's qualifications must be submitted to the Board for pre-approval before such courses are taken by the licensee. Failure to receive Board approval of continuing education hours prior to the end of the license year shall be sufficient cause for non-renewal of the license.

(i) Up to two (2) continuing education hours may be earned via courses taken over the internet for any one renewal period. Each internet course must be fully completed prior to the end of the license year in which it is commenced. Proof of passage must be supplied in writing at the time of renewal for the upcoming year.

(ii) The required one hour of ethics cannot be earned through an internet course. The ethics hour must include a discussion of the statutes, rules and regulations of the State of

Arkansas pertaining to hearing instrument dispensers.

(b) Written evidence of annual calibration of all audiometers and tympanometer used by the license holder to current national standards.

**Section 4.** Any hearing instrument dispenser who, because of illness or other unavoidable circumstance, is unable to comply with the requirements for license renewal, may make application to the Board stating the circumstances as to why he/she is unable to so comply, and the Board, in its discretion, may relieve the applicant from complying for such time and under such circumstances as the Board deems proper.

#### **ARTICLE IX. Standards of Practice**

**Section 1.** Testing. In order to insure accurate testing or screening, the maximum allowable ambient noise level shall not exceed 55dB (A scale) wherever the testing or screening is conducted. The ambient noise level shall be measured on the A scale with a properly calibrated electronic sound level meter, and shall be recorded on the audiogram prior to testing or screening. All equipment must be maintained in good working order and be calibrated to national standards.

**Section 2.** All patients shall receive a battery of tests sufficient to determine the type and degree of hearing loss, and to rule out pathologies that require medical referral. All patients shall receive a battery of tests that will include tympanometry, pure tone air and bone conduction, speech reception threshold and speech discrimination with masking when indicated, and a measurement of most comfortable listening level (MCL), and a measurement of uncomfortable listening level (UCL).

**Section 3.** Fitting. Beginning January 1, 2007, all licensees shall include in their sales agreements the terms of all licensee's warranties and/or guarantees.

**Section 4.** Verification. Evaluation of objective hearing aid performance with hearing instrument(s) in place must be done. This can be accomplished by way of "sound field" or "real ear measurement" testing, according to equipment manufacturer's specifications.

**Section 5.** Validation. All licensees shall record in the patient's file all patient complaints, questionnaires, tests administered, results observed, adjustments made to the hearing instrument, and recommendations made to the patient.

**Section 6.** All licensees operating an established place of business shall maintain their records pertaining to fitting and dispensing hearing instruments to consumers for a period of five (5) years. All such licensees shall furnish copies of a patient's records to him or her, upon request within a reasonable period of time not to exceed thirty (30) days.. All such licensees who cease the active practice of dispensing hearing instruments shall make adequate provisions for a consumer to obtain copies of his or her records upon reasonable request.

#### **ARTICLE X. Unethical Conduct; Termination of Internship**

**Section 1.** It shall be the responsibility of each licensee or intern to be familiar with and to avoid commission of any of the acts regarded as unethical practices by this Act. Full responsibility for the ethical conduct of an intern shall rest with the sponsor.

**Section 2.** A sponsor may terminate an intern for unethical or dishonest conduct, or for other good cause. Within ten (10) days the sponsor shall notify the Board of such termination by certified mail, explaining in full the grounds for such termination.

**Section 3.** Any intern deprived of his/her sponsorship by termination may request a

hearing by the Board. If a majority of the Board shall find him/her blameless of the charges, he/she shall be free to seek sponsorship with the same or another license holder. Upon application

by a new sponsor, his/her internship may be reinstated, with no payment of fee or penalty.

If the Board shall find him/her guilty as charged, the Board, in its discretion, may suspend or revoke the internship.

**Section 4.** Any licensee or intern who violates any FDA rules and/or Federal regulations regarding screening or testing for the purpose of dispensing or selling of hearing instruments or HIPPA regulations concerning patient confidentiality shall be deemed in violation of Ark. Code Ann. Section 17-84-308, and shall be subject to the penalties contained therein.

#### **ARTICLE XI. Filing of Charges and Investigation**

**Section 1.** Any person may make charges in writing with this Board against any licensee or intern.

**Section 2.** Forms for filing complaints against any licensed hearing instrument dispenser or intern may be obtained from the Board by writing to the Executive Director, 1020 Davis Street, Conway, AR 72034, or by calling (501) 548-6146.

**Section 3.** The Board, through its designees, shall investigate all complaints before taking action thereon or making the name public. Any licensed hearing instrument dispenser or intern against whom a complaint has been filed with the Board shall be given the opportunity to defend his/her actions and present arguments in his/her defense.

**Section 4.** If, after investigation, the Board finds the complaint justified, further action taken by the Board shall be governed by the Administrative Procedures Act, Act 434 of 1967, as amended, Ark. Code Ann. Section 25-15-201, et. seq.

#### **ARTICLE XII. Suspension or Revocations**

All actions regarding Article XI shall be governed by the Administrative Procedures Act, Act 434 of 1967, as amended, Ark. Code Ann. Section 25-15-201, et. seq.

#### **ARTICLE XIII. Established Place of Business**

**Section 1.** On his/her application to the Board for a license by examination, or an internship, the applicant shall state the following:

- (a) The applicant's name and residence address.
- (b) The name of the established place of business in which he/she conducts business.
- (c) The physical location or address of that established place of business.
- (d) The mailing address and business phone number of that established place of business.
- (e) A listing of the equipment used in the practice of fitting and dispensing of hearing instruments.
- (f) The name and license number of the person in charge of that established place of business.
- (g) The name and business address, if different of the person or persons financially responsible for that established place of business.

The established place of business identified by the applicant shall be the place where the applicant's license or certificate shall be regularly displayed, and shall contain adequate equipment

and supplies for serving the needs of the public.

**Section 2.** Whenever a licensee or intern hereunder leaves his/her employment at an office for the practice of fitting and dispensing hearing instruments, the holder shall comply with provisions set out in Ark. Code Ann. Section 17-84-309. Failure to give notice required in this Section shall be deemed unethical conduct.

**Section 3.** At the time a license or internship is issued, and for each renewal thereof, an identification card bearing the expiration date of the license or internship, and the name of the licensee or intern shall be issued. Said card shall be kept in the physical possession of the licensee or intern at all times during the performance of his/her duties. On the request of any client or prospective client, Board member, peace officer, or any other person and in relation to the holder's practice of fitting and dispensing hearing instruments, he/she shall permit his/her identification card to be inspected for the purpose of identification.

#### **ARTICLE XIV. Sale of Hearing Instruments to Children**

**Section 1.** It shall be considered a violation of Ark. Code Ann. Section 17-84-101, et. seq., to fit a child under the age of eighteen (18) years of age with a hearing instrument for the first time unless the child has had, in the past six (6) months a medical examination by an otolaryngologist and an audiological examination by an audiologist holding the Certificate of Clinical Competence, and such examination indicates the need for a hearing instrument.

**Section 2.** No child under the age of eighteen (18) years who has been fitted with a hearing instrument, shall be fitted with a different hearing instrument unless a medical examination by an otolaryngologist and an audiological examination by an audiologist holding the Certificate of Clinical Competence has been performed within the past two (2) years.

#### **ARTICLE XV. Violation of State Hearing Instrument Law Across State Lines**

Disciplinary action regarding the fitting and dispensing of hearing instruments by a Board of another state against a person licensed by this Board, may be grounds for an administrative hearing by the Arkansas Board of Hearing Instrument Dispensers.

Effective 1-15-2011