
COMMONWEALTH OF VIRGINIA
BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS



HEARING AID SPECIALIST REGULATIONS

Last Updated October 1, 2003

STATUTES
Title 54.1, Chapter 15



Department of Professional and Occupational Regulation

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STATEMENT OF PURPOSE

This booklet contains the information you will need to obtain your Hearing Aid Specialist license. The law that governs your profession is found in the Code of Virginia, 1950, as amended, in Title 54.1, Chapter 15. That law permits the Department of Professional and Occupational Regulation to issue regulations that tell you more about what is expected of you in your profession. This booklet contains a copy of the law and regulations that you will need to know and obey to get and keep your license. **BE SURE YOU READ AND UNDERSTAND THE STANDARDS OF PRACTICE AND CONDUCT. YOUR FAILURE TO OBEY THESE STANDARDS COULD RESULT IN A MONETARY PENALTY OR THE LOSS OF YOUR LICENSE.**

It is the goal of the Department of Professional and Occupational Regulation to provide you with the information you need to comply with the law and regulations. If you have a question and cannot find the answer to it in this booklet, please contact the Board by writing, e-mail, or phone:

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www.dpor.virginia.gov Forms, regulations, statutes and information pertaining to the Board for Hearing Aid Specialists may be accessed on the Agency's website at www.dpor.virginia.gov

These regulations are the October 1, 2003 VERSION and replace the October 1, 1995 Board for Hearing Aid Specialists regulations. As a licensee of the board, you are responsible for following all regulations and, therefore, you should read and become familiar with all regulations printed in this booklet.

HEARING AID SPECIALIST REGULATIONS

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CHAPTER 20

BOARD FOR HEARING AID SPECIALISTS REGULATIONS.

PART I.

DEFINITIONS.

18 VAC 80-20-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Audiologist" means any person who engages in the practice of audiology as defined by § 54.1-2600 of the Code of Virginia.

"Board" means Board for Hearing Aid Specialists.

"Department" means Department of Professional and Occupational Regulation.

"Hearing aid specialist" means a person who engages in the practice of fitting and dealing in hearing aids or who advertises or displays a sign or represents himself as a person who practices the fitting and dealing of hearing aids.

"Licensed sponsor" means a licensed hearing aid specialist who is responsible for training one or more individuals holding a temporary permit.

"Licensee" means any person holding a valid license issued by the Board for Hearing Aid Specialists for the practice of fitting and dealing in hearing aids, as defined in § 54.1-1500 of the Code of Virginia.

"Otolaryngologist" means a licensed physician specializing in ear, nose and throat disorders.

"Reciprocity" means an agreement between two or more states to recognize and accept one another's regulations and laws.

"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Temporary permit holder" means any person who holds a valid temporary permit under this chapter.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-20. Explanation of terms.

Each reference in this chapter to a person shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural, and to the natural persons and organizations.

(eff. August 23, 1995)

PART II.

ENTRY REQUIREMENTS.

18 VAC 80-20-30. Basic qualifications for licensure.

- A. Every applicant for a license shall provide information on his application establishing that:
1. The applicant is at least 18 years of age.
 2. The applicant has successfully completed high school or a high school equivalency course.
 3. The applicant has training and experience that covers the following subjects as they pertain to hearing aid fitting and the sale of hearing aids, accessories and services:
 - a. Basic physics of sound;
 - b. Basic maintenance and repair of hearing aids;
 - c. The anatomy and physiology of the ear;
 - d. Introduction to psychological aspects of hearing loss;
 - e. The function of hearing aids and amplification;
 - f. Visible disorders of the ear requiring medical referrals;
 - g. Practical tests utilized for selection or modification of hearing aids;
 - h. Pure tone audiometry, including air conduction, bone conduction, and related tests;
 - i. Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
 - j. Masking when indicated;
 - k. Recording and evaluating audiograms and speech audiometry to determine the proper selection and adaptation of hearing aids;
 - l. Taking earmold impressions;
 - m. Proper earmold selection;
 - n. Adequate instruction in proper hearing aid orientation;
 - o. Necessity of proper procedures in after-fitting checkup; and
 - p. Availability of social service resources and other special resources for the hearing impaired.
 4. The applicant has provided one of the following as verification of completion of training and experience as described in subdivision 3 of this subsection:
 - a. A statement on a form provided by the board signed by the licensed sponsor certifying that the requirements have been met; or

- b. A certified true copy of a transcript of courses completed at an accredited college or university, or other notarized documentation of completion of the required experience and training.
- 5. The applicant shall not have been convicted or found guilty of any crime directly related to the practice of fitting and dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor convictions that occurred five or more years prior to the date of application, with no subsequent convictions, all criminal convictions shall be considered as part of the totality of the circumstances of each applicant. The applicant review of prior convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.
- 6. The applicant is in good standing as a licensed hearing aid specialist in every jurisdiction where licensed. The applicant must disclose if he has had a license as a hearing aid specialist that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. At the time of application for licensure, the applicant must also disclose any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a hearing aid specialist. The applicant must also disclose whether he has been previously licensed in Virginia as a hearing aid specialist.
- 7. The applicant has disclosed his physical address. A post office box is not acceptable.
- 8. The nonresident applicant for a license has filed and maintained with the department an irrevocable consent for the department to serve as service agent for all actions filed in any court in Virginia.
- 9. The applicant has submitted the required application with the proper fee as referenced in 18 VAC 80-20-70 and signed, as part of the application, a statement that the applicant has read and understands Chapter 15 (§ 54.1-1500 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board.
- B. The board may make further inquiries and investigations with respect to the qualifications of the applicant or require a personal interview or both. The board may refuse initial licensure due to the applicant's failure to comply with entry requirements. The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act, Chapter 40 of (§2.2-4000 et seq.) Title 2.2 of the Code of Virginia.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-40. Qualifications for a temporary permit.

- A. Any individual may apply for a temporary permit which is to be used solely for the purpose of gaining the training and experience required to become a licensed hearing aid specialist in Virginia. The licensed sponsor shall be identified on the application for a temporary permit and the licensed sponsor shall comply strictly with the provisions of subdivision 2 of this subsection.
 - 1. A temporary permit shall be issued for a period of 12 months and may be extended once for not longer than six months. After a period of 18 months an extension is no longer

possible and the former temporary permit holder shall sit for the examination in accordance with this section. The board may, at its discretion, extend the temporary permit for a temporary permit holder who suffers serious personal illness or injury, or death in his immediate family, or obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board. Documentation of these circumstances must be received by the board no later than 12 months after date of the expiration of the temporary permit or within six months of the completion of military or Peace Corps service, whichever is later.

2. Every applicant for a temporary permit shall provide information on application establishing that:
 - a. The applicant for a temporary permit is at least 18 years of age.
 - b. The applicant for a temporary permit has successfully completed high school or a high school equivalency course.
 3. The applicant shall not have been convicted or found guilty of any crime directly related to the practice of fitting and dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor convictions that occurred five or more years prior to the date of application, with no subsequent convictions, all criminal convictions shall be considered as part of the totality of the circumstances of each applicant. Review of prior convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.
 4. The applicant for a temporary permit is in good standing as a licensed hearing aid specialist in every jurisdiction where licensed. The applicant for a temporary permit must disclose if he has had a license as a hearing aid specialist that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. At the time of application, the applicant for a temporary permit must also disclose any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a hearing aid specialist. The applicant for a temporary permit must also disclose whether he has been licensed previously in Virginia as a hearing aid specialist.
 5. The applicant for a temporary permit has disclosed his physical address. A post office box is not acceptable.
 6. The applicant for a temporary permit has submitted the required application with the proper fee referenced in 18 VAC 80-20-70 and has signed, as part of the application a statement that the applicant has read and understands Chapter 15 (§ 54.1-1500 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board.
- B. The licensed hearing aid specialist who agrees to sponsor the applicant for a temporary permit shall certify on the application that as sponsor, he:
1. Assumes full responsibility for the competence and proper conduct of the temporary permit holder with regard to all acts performed pursuant to the acquisition of training and experience in the fitting and dealing of hearing aids;

2. Will not assign the temporary permit holder to carry out independent field work without on-site direct supervision by the sponsor until the temporary permit holder is adequately trained for such activity;
 3. Will personally provide and make available documentation, upon request by the board or its representative, showing the number of hours that direct supervision has occurred throughout the period of the temporary permit; and
 4. Will return the temporary permit to the department should the training program be discontinued for any reason.
- C. The licensed sponsor shall provide training and shall ensure that the temporary permit holder under his supervision gains experience that covers the following subjects as they pertain to hearing aid fitting and the sale of hearing aids, accessories and services:
1. Basic physics of sound;
 2. Basic maintenance and repair of hearing aids;
 3. The anatomy and physiology of the ear;
 4. Introduction to psychological aspects of hearing loss;
 5. The function of hearing aids and amplification;
 6. Visible disorders of the ear requiring medical referrals;
 7. Practical tests utilized for selection or modification of hearing aids;
 8. Pure tone audiometry, including air conduction, bone conduction, and related tests;
 9. Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
 10. Masking when indicated;
 11. Recording and evaluating audiograms and speech audiometry to determine the proper selection and adaptation of hearing aids;
 12. Taking earmold impressions;
 13. Proper earmold selection;
 14. Adequate instruction in proper hearing aid orientation;
 15. Necessity of proper procedures in after-fitting checkup; and
 16. Availability of social service resources and other special resources for the hearing impaired.
- D. The board may make further inquiries and investigations with respect to the qualifications of the applicant for a temporary permit or require a personal interview, or both.
- E. All correspondence from the board to the temporary permit holder shall be addressed to both the temporary permit holder and the licensed sponsor and shall be sent to the business address of the licensed sponsor.

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-50. Qualifications for licensure by reciprocity.

Every applicant for Virginia licensure through reciprocity, who is currently licensed as a hearing aid specialist in good standing in another jurisdiction, shall provide information upon application establishing that the requirements and standards under which the license was issued are substantially equivalent to, and not conflicting with the provisions of this chapter. The applicant shall file the application for reciprocity with, and pay a fee to, the board, and must successfully complete the specified sections of the examination.

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-60. (Repeal)

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-70. Fees.

- A. All fees are nonrefundable and shall not be prorated. The date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time.
- B. Application and examination fees must be submitted with the application for licensure.
- C. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge established by the department.

The following fees apply:

Application Fee	\$30	to be paid by all applicants for initial licensure except reciprocal applicants
Examination Fee	\$110	
Licensure Fee for Reciprocity	\$140	includes exam fee
Temporary Permit Fee	\$30	
Re-examination Fee	\$95	per written or practical part
Renewal	\$20	
Reinstatement	\$50	
Duplicate Wall Certificate	\$25	

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-80. Examinations.

- A. All examinations required for licensure shall be approved by the board and administered by the board, a testing service acting on behalf of the board, or another governmental agency or organization.
- B. The candidate for examination shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board with regard to conduct at the examination shall be grounds for denial of the application.

- C. Applicants for licensure shall pass a two part examination, of which Part I is a written examination and Part II is a practical examination.
1. The applicant shall pass each section of the written and practical examination administered by the board. Candidates failing one or more sections of the written or practical examination will be required to retake only those sections failed.
 2. Any candidate failing to achieve a passing score on all sections in three successive scheduled examinations must reapply as a new applicant for licensure and repeat all sections of the written and practical examination.
 3. If the temporary permit holder fails to achieve a passing score on any section of the examination in three successive scheduled examinations, the temporary permit shall expire upon receipt of the examination failure letter resulting from the third attempt.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

PART III.

RENEWAL.

18 VAC 80-20-90. License renewal required.

Licenses issued under this chapter shall expire on December 31 of each even-numbered year as indicated on the license.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995)

18 VAC 80-20-100. Procedures for renewal.

The board will mail a renewal application form to the licensee at the last known address. Failure to receive this notice shall not relieve the licensee of the obligation to renew. Prior to the expiration date shown on the license, each licensee desiring to renew his license must return to the board all required forms and the appropriate fee as outlined in 18 VAC 80-20-70 of this chapter.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995)

18 VAC 80-20-110. Fees for renewal.

Licenses shall be required to renew their license by submitting the proper fee made payable to the Treasurer of Virginia. Any licensee who fails to renew within 30 days after the license expires shall be required to apply for reinstatement.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995)

18 VAC 80-20-120. Board discretion to deny renewal.

The board may deny renewal of a license for the same reasons as it may refuse initial licensure as set forth in Part II or discipline a licensee as set forth in Part V of this chapter. The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-130. Qualifications for renewal.

Applicants for renewal of a license shall continue to meet the standards of entry as set forth in 18 VAC 80-20-30 A 2, 18 VAC 80-20-30 A 3, and 18 VAC 80-20-30 A 5, through 18 VAC 80-20-30 A 9.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

PART IV.

REINSTATEMENT.

18 VAC 80-20-140. Reinstatement required.

If a licensee fails to meet the requirements for renewal and submit the renewal fee within 30 days after the expiration date on the license, the licensee must apply for reinstatement on a form provided by the board.

1. Applicants for reinstatement shall continue to meet the standards of entry in 18 VAC 80-20-30 A 2, 18 VAC 80-20-30 A 3, and 18 VAC 80-20-30 A 5, and through 18 VAC 80-20-30 A 9.
2. Applicants for reinstatement shall submit the required fee referenced in 18 VAC 80-20-70.
3. Two years after the expiration date on the license, reinstatement is no longer possible. To resume practice as a hearing aid specialist, the former licensee must apply as a new applicant for licensure, meeting all educational, examination, and experience requirements as listed in the regulations current at the time of reapplication.
4. Any hearing aid specialist activity conducted subsequent to the expiration date of the license may constitute unlicensed activity and may be subject to prosecution by the Commonwealth under §§ 54.1-111 and 54.1-202 of the Code of Virginia.

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-150. Board discretion to deny reinstatement.

The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline a licensee. The licensee is entitled to a review of such action. Appeals from such actions shall be in accordance with the provisions of the Administrative Process Act, Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-160. Status of license during the period prior to reinstatement.

- A. When a licensee is reinstated, the license shall continue to have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license, which is the expiration date assigned to all licenses at the time the license is reinstated.
- B. A licensee who reinstates his license shall be regarded as having been continually licensed without interruption. Therefore, the licensee shall remain under the disciplinary authority of the board during the entire period and may be held accountable for his activities during this period. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of licensure.

(eff. August 23, 1995; October 1, 2003)

PART V.

STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 80-20-170. (Repeal)

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-180. Maintenance of licenses.

- A. Notice in writing shall be given to the board in the event of any change of business or individual name or address. Such notice shall be mailed to the board within 30 days of the change of the name or location. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board in writing of any change of name or address.
- B. All licensees shall operate under the name in which the license is issued.
- C. All licenses issued by the board must be visibly displayed at each physical site of employment in such a manner that the public can easily read the name of the licensee. If the individual practices at more than one site, a photocopy of the license is acceptable.

(eff. August 23, 1995; October 1, 2003)

18 VAC 80-20-190. Business records and practice.

- A. This section shall apply with reference to the licensee's official records and public access.
- B. The licensee shall keep on record with the board the location of the licensee's records, which shall be accessible to the board, with or without notice, during reasonable business hours. The licensee must promptly produce to the board or any of its agents, upon request or demand, any document, book, record, copy thereof in the licensee's possession or control concerning a transaction covered by this chapter or for which the licensee is required to maintain records.
- C. The licensee shall be accessible to the public for expedient, reliable and dependable services, and repairs.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995)

18 VAC 80-20-200. Documentation provided to each purchaser.

The licensee shall deliver to each purchaser at the time of repair or service a signed receipt by the licensee or designee and showing:

- 1. Licensee's business address, license number and business telephone number;
- 2. The make and model of the hearing aid or equipment to be repaired or serviced and, in addition, serial numbers on models to be repaired and serviced; and
- 3. The full terms of the transaction clearly stated.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-210. Measures to take when first contact is established with any purchaser or prospective purchaser.

- A. When first contact is established with any purchaser or prospective purchaser outside the hearing aid specialist's principal place of business, the licensee shall provide a disclosure form prescribed by the board containing information that the purchaser or prospective purchaser will need to obtain service/maintenance. The disclosure form shall include:
1. Address and telephone number where the hearing aid specialist can be reached.
 2. Days and hours contact can be made;
 3. Whether service/maintenance will be provided in the office or in the home of the purchaser or prospective purchaser; and
 4. If the hearing aid specialist has no principal place of business in Virginia, a clear statement that there is no principal place of business in Virginia.
- B. When first contact is established with any purchaser or prospective purchaser the licensee shall:
1. Advise the purchaser or prospective purchaser that hearing aid specialists are not licensed to practice medicine; and
 2. Advise the purchaser or prospective purchaser that no examination or representation made by the specialist should be regarded as a medical examination, opinion, or advice.
 - a. A statement that this initial advice was given to the purchaser or prospective purchaser shall be entered on the purchase agreement in print as large as the other printed matter on the receipt.
 - b. Exemption: Hearing aid specialists who are physicians licensed to practice medicine in Virginia are exempt from the requirements of this subsection.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-220. Purchase agreement.

- A. Each hearing aid shall be sold through a purchase agreement which shall:
1. Show the licensee's business address, license number and business telephone number and signature;
 2. Comply with federal and Virginia laws and regulations, United States Food and Drug Administration (FDA) regulations, the Virginia Home Solicitation Sales Act (Chapter 2.1 of Title 59.1 of the Code of Virginia), and the Virginia Consumer Protection Act (Chapter 17 of Title 59.1 of the Code of Virginia);
 3. Clearly state, if the hearing aid is not new and is sold or rented that it is "used" or "reconditioned," whichever is applicable, including the terms of warranty, if any. The hearing aid container shall be clearly marked with the same information contained in the purchase agreement.
 4. Identify the brand names and model of the hearing aid being sold, and the serial number of the hearing aid shall be provided, in writing, to the purchaser or prospective purchaser at the time of delivery of the hearing aid;

5. Disclose the full purchase price;
 6. Disclose the down payment and periodic payment terms in cases where the purchase price is not paid in full at delivery;
 7. Disclose any non-refundable fees;
 8. Disclose any warranty;
 9. Explain the provisions of § 54.1–1505 of the Code, which entitles the purchaser to return the hearing aid, in the 10-point bold face type that is bolder than the type in the remainder of the purchase agreement; and
 10. Disclose that the licensee or temporary permit holder is not a physician licensed to practice medicine in Virginia and that no examination or representation made shall be regarded as a medical examination, opinion or advice;
- B. Subdivision A 10 of this section shall not apply to sales made by a licensed hearing aid specialist who is a physician licensed to practice medicine in Virginia.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-230. Fitting and sale of hearing aids for children.

Any person engaging in the fitting and sale of hearing aids for a child under 18 years of age shall:

1. Any person engaging in the fitting and sale of hearing aids for a child under 18 years of age shall ascertain whether such child has been examined by an otolaryngologist or a licensed physician within six months prior to fitting.
2. No child under 18 years of age shall be initially fitted with a hearing aid or hearing aids unless the licensed hearing aid specialist has been presented with a written statement signed by an otolaryngologist stating the child's hearing loss has been medically evaluated and the child may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding six months.
3. No child under 18 years of age shall be subsequently fitted with a hearing aid or hearing aids unless the licensed hearing aid specialist has been presented with a written statement signed by a licensed physician stating the child's hearing loss has been medically evaluated and the child may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding six months.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-240. Physician statement regarding adult client's medical evaluation of hearing loss.

- A. Each licensee or holder of a temporary permit, in counseling and instructing adult clients and prospective adult clients related to the testing, fitting, and sale of hearing aids, shall be required to recommend that the client obtain a written statement signed by a licensed physician stating that the patient's hearing loss has been medically evaluated within the preceding six months and that the patient may be a candidate for a hearing aid.
- B. Should the client decline the recommendation a statement of such declination shall be obtained from the client over his signature. Medical waivers that are a part of purchase agreements shall be in a separate section, which shall be signed by the client indicating his understanding of the medical waiver. A separate, additional client signature space shall be

provided in all purchase agreements for the client to sign acknowledging his understanding of the purchase terms and conditions established by 18 VAC 80-20-200.

1. Fully informed adult patients (18 years of age or older) may waive the medical evaluation.
 2. The hearing aid specialist is prohibited from actively encouraging a prospective user to waive a medical examination.
- C. The information provided in subsection A of this section must be made a part of the client's record kept by the hearing aid specialist.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-250. Testing procedures.

It shall be the duty of each licensee and holder of a temporary permit engaged in the fitting and sale of hearing aids to use appropriate testing procedures for each hearing aid fitting. All tests and case history information must be retained in the records of the specialist. The established requirements shall be:

1. Air Conduction Tests A.N.S.I. standard frequencies of 500-1000-2000-4000 Hertz. Intermediate frequencies shall be tested if threshold difference between octaves exceeds 15dB. Appropriate masking must be used if the difference between the two ears is 40 dB or more at any one frequency.
2. Bone Conduction Tests are to be made on every client--A.N.S.I. standards at 500-1000-2000-4000 Hertz. Proper masking is to be applied if the air conduction and bone conduction readings for the test ear at any one frequency differ by 15 dB or if lateralization occurs.
3. Speech testing shall be made before fittings and shall be recorded with type of test, method of presentation and the test results.
4. The specialist shall check for the following conditions and, if they are found to exist, shall refer the client to a licensed physician unless the client can show that his present condition is under treatment or has been treated:
 - a. Visible congenital or traumatic deformity of the ear.
 - b. History of active drainage from the ear within the previous 90 days.
 - c. History of sudden or rapidly progressive hearing loss within the previous 90 days.
 - d. Acute or chronic dizziness.
 - e. Unilateral hearing loss.
 - f. Audiometric air bone gap equal to or greater than 15 dB at 500 Hertz, 1000 Hertz, and 2000 Hertz.
 - g. Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
 - h. Tinnitus as a primary symptom.
 - i. Pain or discomfort in the ear.

5. All tests shall have been conducted no more than six months prior to the fitting.
6. Post-fitting testing shall be made and recorded with type of test, method of presentation and the test results.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-260. Calibration statement required.

- A. Audiometers used in testing the hearing impaired must be in calibration.
- B. Calibration must be done once a year or more often, if needed.
- C. A certified copy of an electronic audiometer calibration shall be maintained for three years and shall be made available to the department upon request.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-270. Grounds for discipline.

The board may fine any licensee or suspend, revoke, or deny any license issued under the provisions of Chapter 15 (§ 54.1-1500 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board. Disciplinary procedures are governed by the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia. In exercising its disciplinary function, the board will consider the totality of the circumstances of each case. Any licensee is subject to board discipline for any of the following:

1. Improper conduct, including but not limited to:
 - a. Obtaining or renewing a license by false or fraudulent representation;
 - b. Obtaining any fee or making any sale by fraud or misrepresentation;
 - c. Employing to fit and sell hearing aids a person who does not hold a valid license or a temporary permit, or whose license or temporary permit is suspended;
 - d. Using, causing, or promoting the use of any misleading, deceptive, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, whether disseminated orally or published;
 - e. Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type;
 - f. Representing that the service or advice of a person licensed to practice medicine or audiology will be used in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true; or using the words "physician," "audiologist," "clinic," "hearing service," "hearing center," or similar description of the services and products provided when such use is not accurate;
 - g. Directly or indirectly giving, or offering to give, favors, paid referrals, or anything of value to any person who in his professional capacity uses his position to influence third parties to purchase products offered for sale by a hearing aid specialist; or
 - h. Failing to provide expedient, reliable and dependable services when requested by a client or client's guardian.

2. Failure to include on the purchase agreement a statement regarding home solicitation, when required by federal and state law.
3. Incompetence or negligence, as those terms are generally understood in the profession, in fitting or selling hearing aids.
4. Failure to provide required or appropriate training resulting in incompetence or negligence, as those terms are generally understood in the profession, by a temporary permit holder under the licensee's sponsorship.
5. Violating or cooperating with others in violating any provisions of Chapters 1, 2, 3, and 15 of Title 54.1 of the Code of Virginia or any regulation of the board.
6. The applicant shall not have been convicted or found guilty of any crime directly related to the practice of fitting and dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor convictions that occurred five or more years prior to the date of application, with no subsequent convictions, all criminal convictions shall be considered as part of the totality of the circumstances of each applicant. Review of prior convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any pleas of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence of the law of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.

(eff. December 4, 1989; March 27, 1991; January 15, 1992; August 23, 1995; October 1, 2003)

18 VAC 80-20-280. Accountability of licensee.

A licensee shall be responsible for the acts or omissions of his staff in the performance of the fitting and dispensing of hearing aid services.

(eff. August 23, 1995; October 1, 2003)

Included in this booklet are relevant excerpts from the *Code of Virginia*. Please note that the Virginia General Assembly is responsible for creating and amending the *Code*, not the Board for Hearing Aid Specialists. It is your responsibility to stay informed of revisions to the regulations and the statutes governing your profession or occupation. Please consult the General Assembly or your local library for annual changes.

CODE OF VIRGINIA
TITLE 54.1 - PROFESSIONS AND OCCUPATIONS
CHAPTER 15 - Hearing Aid Specialists

§ 54.1-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board for Hearing Aid Specialists.

"Hearing aid" means any wearable instrument or device designed or offered to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords.

"License" means a license issued under this chapter to hearing aid specialists.

"Practice of fitting or dealing in hearing aids" means (i) the measurement of human hearing by means of an audiometer or by any other means solely for the purpose of making selections, adaptations or sale of hearing aids, (ii) the sale of hearing aids, or (iii) the making of impressions for earmolds. A practitioner, at the request of a physician or a member of a related profession, may make audiograms for the professional's use in consultation with the hard-of-hearing.

"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 practitioners.

"Temporary permit" means a permit issued while an applicant is in training to become a licensed hearing aid specialist.

(1970, c. 571, § 54-524.110; 1988, c. 765; 2005, c. 599.)

§ 54.1-1501. Exemptions; sale of hearing aids by corporations, etc., measuring hearing.

A. Physicians licensed to practice in Virginia and certified by the American Board of Otolaryngology or eligible for such certification shall not be required to pass an examination as a prerequisite to obtaining a license under this chapter.

B. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license, provided that it employs only licensed practitioners in the direct sale and fitting of such products.

C. Nothing in this chapter shall prohibit any person who does not sell hearing aids or accessories or who is not employed by an organization which sells hearing aids or accessories from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids.

(1970, c. 571, §§ 54-524.111, 54-524.112; 1974, c. 534; 1986, c. 279; 1988, c. 765; 1996, c. 741.)

§ 54.1-1502. Board; qualifications and terms of members; officers.

The Board for Hearing Aid Specialists shall consist of seven members, as follows: four licensed hearing aid specialists, of which at least one shall be licensed as an audiologist by the Board of Audiology and Speech-Language Pathology, one otolaryngologist, and two citizen members. One of the citizen members shall be a hearing aid user and the other a person who has a family member who is or has been a hearing aid user. Each hearing aid specialist and the otolaryngologist shall have at least five years of experience in their respective fields immediately prior to appointment. The terms of Board members shall be four years.

There shall be a chairman and vice-chairman, each of whom shall be elected by the Board from its membership.

(1970, c. 571, § 54-524.113; 1974, c. 534; 1979, c. 296; 1981, c. 447; 1988, c. 765; 1994, c. 26.)

§ 54.1-1503. Nominations for Board appointments.

The appointment of the otolaryngologist member may be made from a list of at least three names submitted to the Governor by the Medical Society of Virginia. The appointment of one of the hearing aid specialist members may be made from a list of at least three names submitted to the Governor by the Speech-Language Hearing Association of Virginia. The appointment of the remaining hearing aid specialist members may be made from a list of at least three names for each vacancy submitted to the Governor by the Virginia Society of Hearing Aid Specialists. Nominations for appointments to regular terms shall be submitted to the Governor on or before June 1 of each year. The Governor may notify the Society or Association, respectively, of any vacancy other than by expiration, and like nominations may be made for the filling of the vacancy. In no case shall the Governor be bound to make any appointment from among the nominees.

(1970, c. 571, § 54-524.114; 1988, c. 765; 1994, c. 26.)

§ 54.1-1504. License required.

No person shall engage in the practice of fitting or dealing in hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting or dealing of hearing aids unless he holds a license as provided in this chapter.

(1970, c. 571, § 54-524.111; 1974, c. 534; 1986, c. 279; 1988, c. 765; 2005, c. 599.)

§ 54.1-1505. Return of hearing aid by purchaser or lessee.

A. Within thirty days of the date of delivery, any purchaser or lessee of a hearing aid shall be entitled to return the hearing aid for any reason, provided such aid is returned in satisfactory condition. Such purchaser or lessee shall be entitled to a replacement or a refund of all charges paid, less a reasonable charge for medical, audiological, and hearing aid evaluation services provided by the hearing aid specialist.

B. The right of a purchaser or lessee to return a hearing aid and the charges to be imposed upon the return of such hearing aid, as provided in subsection A of this section, shall be explained and given in writing in at least ten-point, bold-faced type to such purchaser or lessee by the hearing aid specialist.

C. The provisions of this section shall be subject to the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

(1990, c. 584.)