

**BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
MINUTES OF MEETING**

The Board for Hearing Aid Specialists and Opticians met on Wednesday, June 21, 2023, at the Offices of the Department of Professional and Occupational Regulation, Perimeter Center, Board Room 2, 2nd Floor, 9960 Mayland Drive, Richmond, Virginia 23233. The following members were present for the meeting:

Kristina Green, Chair
Debra Ogilvie, AuD, Vice Chair
Darla All
Kaytlyn Young
Pamela Chavis, MD
Bruce R. Wagner
Michael Armstrong, MD
Pamela Smith
Stacey Brayboy
Laura Lee Thompson

The following members were not present:

Melissa Gill
Erik Meland

DPOR staff present for all, or part of the meeting included:

Demetrios Melis, Director
Stephen Kirschner, Deputy Director, Licensing & Regulatory Programs
Kelley Smith, Executive Director
Tamika Rodriguez, Regulatory Operations Administrator
Heather Garnett, Administrative Coordinator

A representative from the Office of the Attorney General was not present for the meeting.

Ms. Green, Chair, determined that there was a quorum present and called the meeting to order at 9:42 a.m.

CALL TO ORDER

Ms. Smith, Executive Director, explained the emergency evacuation procedures for board room 2.

**EMERGENCY
EVACUATION
PROCEDURES**

The Board took the agenda under consideration.

**APPROVAL OF
AGENDA**

Ms. Smith informed the Board that agenda item F under new business will be included with new business item B.

Upon a motion by Ms. All and seconded by Ms. Brayboy, the Board voted to approve the agenda.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Upon a motion by Dr. Ogilvie and seconded by Ms. Young the board voted to approve and consider all minutes in the agenda as a block.

**APPROVAL OF
MINUTES
CONSIDERED AS A
BLOCK**

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

The Board discussed the letter received from Optical Alliance.

COMMUNICATION

Upon a motion by Dr. Armstrong and seconded by Ms. Brayboy, the Board voted that the letter will be distributed to the Department exams director. Gregory Emerson, Exams Director will contact the ABO for a response to the letter.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Green informed the Board the email from the Department of Labor and Industry will be discussed under new business.

There were no public comments.

**PUBLIC
COMMENT**

There were no licensing or disciplinary cases to be heard.

CASES

REPORTS

Ms. Green asked the Board to review the licensing and examination statistics that were provided in the agenda.

**Licensing and
Examination
Statistics**

**REGULATORY
ACTION AND
BOARD
GUIDANCE**

Ms. Rodriguez reported on the Amendment to expand training options for Hearing Aid Specialists. The action is in the proposed stage at the Governor's Office. Further discussion of this regulatory action will be addressed during new business.

Regulatory Report

Ms. Rodriguez reported a Notice of Intended Regulatory Action (NOIRA) was filed to increase Optician Fees. The Secretary of Labor review is in process.

Ms. Rodriguez informed the Board a periodic review of Hearing Aid Specialists and Optician regulations is in the public comment period which will end on July 10, 2023.

Periodic Review

NEW BUSINESS

Ms. Rodriguez informed the Board that the Opticians Regulatory Review Committee requested a fast-track regulation to change the requirements for lenses and frames. The committee's experts advised that the regulations should adhere to ANSI Z80.1 and Z87.1.

**Optician Lenses and
Frames- ANSI
Standards**

Upon a motion by Ms. Young and seconded by Ms. All, the Board voted to adopt the non-controversial fast-track regulation for using ANSI standards for lenses and frames specifications.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Rodriguez reported to the Board that the Optician Curriculum Criteria Committee referred the language of the Related Technical Instruction to the board for consideration. The Regulatory Affairs Manager suggested adding the Opticians Curriculum to the NOIRA with the Opticians Regulatory Review.

**Notice of Intended
Regulatory Action-
Optician Curriculum
Criteria**

Upon a motion by Ms. All and seconded by Dr. Ogilvie, the Board voted to approve the language for Related Technical Instruction Curriculum Criteria and add it to the NOIRA with the Optician Regulatory Review.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Smith presented the Board with the NOIRA for the Opticians Regulatory Review. Ms. Smith also provided the Board additional regulatory suggestions from the Regulatory Affairs Manager for the Board's consideration.

**Notice of Intended
Regulatory Action-
Optician Regulatory
Review**

The Board discussed the Opticians Regulatory Review.

Upon a motion by Ms. Young and seconded by Ms. All, the Board voted to accept the changes. Staff will draft changes for Board review at the next meeting.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Smith presented the Board with the NOIRA for the Hearing Aid Specialists Regulatory Review. Ms. Smith also provided the Board additional regulatory suggestions from the Regulatory Affairs Manager for the Board's consideration.

**Notice of Intended
Regulatory Action-
Hearing Aid
Specialists
Regulatory Review**

The Board discussed the Hearing Aid Specialists Regulatory Review.

Upon a motion by Dr. Ogilvie and seconded by Mr. Wagner, the Board voted to accept the changes. Staff will draft changes for Board review at the next meeting.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

The Board recessed the meeting from 11:50 a.m. to 12:03 p.m.

Recess

Ms. Smith informed the Board that the Curriculum Review Committee took Optical Training Institute's Curriculum into consideration as related technical instruction. The Committee is recommending the Board approve the curriculum as related technical instruction for the Virginia Department of Labor and Industry registered apprenticeship program.

**Optical Training
Institute Curriculum**

Upon a motion by Ms. All and seconded by Ms. Young, the Board voted to approve Optical Training Institute's Curriculum as related technical instruction.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Rodriguez proposed an updated guidance document to include Optical Training Institute as a Board approved related technical instruction provider for registered apprentices with the Department of Labor and Industry.

**Guidance Document-
Related Technical
Instruction**

Upon a motion by Ms. All and seconded by Ms. Young, the Board voted to approve the revised guidance document to reflect the current list of approved related technical instruction.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Smith informed the Board of an email from the Department of Labor and Industry requesting clarification concerning mentor/journey worker. Ms. Smith suggested a revision to the Addendum's Item 20.b(2).

**Registered
Apprenticeship
Sponsors-Opticians
Standards of
Apprenticeship**

Upon a motion by Ms. Brayboy and seconded by Ms. Smith, the Board voted to approve the revision.

The members voting 'yes' were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Smith informed the Board of a request from the Department of Labor and Industry to amend the optician apprenticeship to mimic other professions, one licensee may supervise two apprentices.

**Registered
Apprenticeship
Sponsors-
Apprenticeship
Supervisor Ratio**

Upon a motion by Ms. Young and seconded by Ms. Thompson, the Board voted to ease the apprenticeship supervisor requirements to two apprentices for every one supervisor.

The members voting ‘yes’ were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Mr. Kirschner recommends the Board create a Hearing Aid Specialist Exam Review Committee for the practical exam, led by the Department’s exam section.

Hearing Aid Specialist Practical Exam

Upon a motion by Dr. Armstrong and seconded by Ms. Brayboy, the Board voted to create a Hearing Aid Specialist Exam Review Committee consisting of Board members, Dr. Armstrong, Mr. Wagner, Dr. Ogilvie, and Ms. Smith.

The members voting ‘yes’ were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Mr. Kirschner informed the Board, the Governor’s Office requested to consider modifying the proposed Hearing Aid Specialist regulation concerning the length of time individuals must hold a temporary permit from nine months to six months.

Proposed Amendment to Expand Training Options for Applicants Revision

Upon a motion by Ms. Brayboy and seconded by Ms. Smith, the Board voted to modify the length of time individuals must hold a temporary permit from nine months to six months.

The members voting ‘yes’ were Ms. All, Ms. Brayboy, Ms. Green, Dr. Ogilvie, Ms. Young, Mr. Wagner, Dr. Chavis, Dr. Armstrong, Ms. Smith, and Ms. Thompson. There were no negative votes. The motion passed unanimously.

Ms. Smith reminded the Board the next scheduled Board Meeting will be held on August 16, 2023.

Reminders

There being no further business, the meeting adjourned at 12:30 p.m.

Adjourn

Kristina Green, Chair

Demetrios J. Melis. Board Secretary

Project 7491 - NOIRA

Board For Hearing Aid Specialists And Opticians

General Regulatory Reduction Initiative-Opticians

18VAC80-30-10. Definitions.

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

"Active employment" engages in the practice of opticianry.

"Apprentice" means a person at least 16 years of age who is covered by a written agreement with an employer and approved by the Virginia Apprenticeship Council.

"Board" means the Board for Hearing Aid Specialists and Opticians.

"Contact lens endorsed optician" means any person not exempted by § 54.1-1506 of the Code of Virginia who is a Virginia licensed optician and who has received a contact lens endorsement from the board, who fits contact lenses on prescription from licensed physicians or licensed optometrists for the intended wearers.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Fit or dispense" means to measure, adapt, fit or adjust eyeglasses, spectacles, lenses, or appurtenances to the human face, or to verify the prescription to be correct in the prescription eyeglasses or prescription optical devices.

"Licensed optician" means any person who is the holder of a license issued by the board.

"Optician" means any person not exempted by § 54.1-1506 of the Code of Virginia who prepares or dispenses eyeglasses, spectacles, lenses, or related appurtenances for the intended wearers or users on prescriptions from licensed physicians or licensed optometrists, or as duplications or reproductions of previously prepared eyeglasses, spectacles, lenses, or related appurtenances; or who, in accordance with such prescriptions, duplications or reproductions, measures, adapts, fits, and adjusts eyeglasses, spectacles, lenses, or appurtenances to the human face.

"Opticianry" means the personal health service that is concerned with the art and science of ophthalmic optics as applied to the compounding, filling, and adaptations of ophthalmic prescriptions, products, and accessories.

18VAC80-30-20. Qualifications of applicant.

An applicant for a license shall furnish satisfactory evidence on an application provided by the board establishing that:

1. The applicant is at least 18 years of age unless emancipated under the provisions of § 16.1-333 of the Code of Virginia;
2. The applicant is a graduate of an accredited high school, has completed the equivalent of grammar school and a four-year high school course, or is a holder of a certificate of general educational development;
3. The applicant is in good standing as a licensed optician in every jurisdiction where licensed; Applicant shall disclose to the board at the time of application for licensure, any disciplinary action taken in Virginia and all other jurisdictions in connection with the applicant's practice as an optician. This includes monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license. The applicant shall disclose to the board at the time of application for licensure if he has been previously licensed in Virginia as an optician.

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny licensure to any applicant wherein the board deems the applicant is unfit or unsuited to engage in opticianry. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere or comparable plea shall be considered a disciplinary action for the purposes of this section. The applicant shall provide a certified copy of a final order, decree, or case decision by a court, regulatory agency, or board with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such disciplinary action.

4. ~~The applicant has not been convicted in any jurisdiction of a misdemeanor or felony involving sexual offense or physical injury, or any felony involving drug distribution or that directly relates to the profession of opticianry. The board shall have the authority to determine, based upon all the~~

~~information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of opticianry. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The licensee shall provide a certified copy of a final order, decree, or case decision by a court or regulatory agency with the lawful authority to issue such order, decree, or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the licensee to the board within 10 days after all appeal rights have expired; In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:~~

- ~~a. All misdemeanor convictions that occurred in the last three years where the applicant has a subsequent conviction involving sexual offense and physical injury; and~~
- ~~b. All felony convictions involving sexual offense, physical injury, drug distribution, or crimes involving the profession of opticianry.~~

~~The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of opticianry;~~

5. The applicant has successfully completed one of the following education requirements:
 - a. A board-approved two-year course in a school of opticianry, including the study of topics essential to qualify for practicing as an optician; or
 - b. A two-year apprenticeship, including all required related technical instruction, while registered in the apprenticeship program in accordance with the standards established by the state Department of Labor and Industry, Division of Registered Apprenticeship, and approved by the board;
6. The applicant has disclosed his current mailing address;
7. The nonresident applicant for a license has filed and maintained with the department an irrevocable consent for the director of the department to serve as service agent for all actions filed in any court in the Commonwealth; and
8. The applicant shall certify, as part of the application, 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.

18VAC80-30-30. Opticians licensed in another state.

~~A. An optician licensed in another state seeking to be licensed as an optician in Virginia shall submit an application on a form provided by the board with the required fee. All fees are nonrefundable and shall not be prorated. Every applicant for Virginia licensure through endorsement who is currently licensed as an optician 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 endorsement and pay a fee to the board.~~

B. The board, using the following standards, shall issue a license to any person licensed in another state who:

1. Has met requirements equivalent to those listed in 18VAC 80-30-20A.1-A.4; and
2. Has passed a substantially equivalent examination.

18VAC80-30-40. Registration for voluntary practice by out-of-state licensees. (Repealed.)

~~Any optician who does not hold a license to practice in Virginia and who seeks registration in accordance with subdivision 5 of § 54.1-1506 of the Code of Virginia shall:~~

- ~~1. File a complete application for registration on a form provided by the board within 15 days prior to engaging in such practice. An incomplete application will not be considered;~~
- ~~2. Provide a complete list of professional licensure in each state in which he has held a license and a copy of any current license;~~
- ~~3. Provide a name of the nonprofit organization, the dates and location of the voluntary provision of services; and~~
- ~~4. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with the provisions of subdivision 5 of § 54.1-1506 of the Code of Virginia.~~

18VAC80-30-50. Fees.

~~A. The fee for examination or examinations shall consist of the combination of an administrative charge of \$25 (spectacle), \$25 (contact lens), and the appropriate contract charges. will be the appropriate contract charges to the board by an outside vendor. Examination service contracts shall be established in~~

compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The total examination fee shall not exceed a the cost of \$1,000 to the applicant.

B. All application fees for licenses are nonrefundable and the date of receipt by the board or its agent is the date which will be used to determine whether it is on time.

C. Application and ~~examination~~ fees must be submitted with the application for licensure.

The following fees shall apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Application for licensure	\$100	With application
Application for contact lens certification	\$100	With application
Renewal	\$100	Up to the expiration date on the license with a 30-day grace period
Late renewal (includes renewal fee)	\$125	Between 30 and 60 days after the expiration date on the license
Reinstatement (includes renewal and late renewal fees)	\$225	After 60 days following the expiration date on the license

18VAC80-30-60. Examinations.

A. All examinations required for licensure shall be approved by the board and administered by the board, or its agents or employees acting on behalf of the board.

B. The board shall schedule an examination to be held at least twice each calendar year, ~~at a time and place to be designated by the board.~~

C. The applicant shall follow all rules established by the board with regard to conduct at an 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 an examination shall be grounds for denial of application.

18VAC80-30-70. Content of optician examination and reexamination.

A. Applicants for licensure shall pass a written examination and a practical examination approved by the board. An applicant shall pass the written and practical examination within two years of the initial test date. After two years, the applicant shall file a new application and pay the required fee. Any applicant who fails the written or practical examination, or both examinations, shall be required to be reexamined on the failed examination(s) and shall pay the reexamination fee(s).

B. The optician examination given by the board may ~~may~~ will include, but is not limited to, the following topics:

1. Ophthalmic materials;
2. Ophthalmic optics and equipment;
3. Ophthalmic spectacle lens grinding;
4. Prescription interpretation;
5. Theory of light;
6. Finishing, fitting and adjusting of eyeglasses and frames;
7. Ethics of relationship in respect to patient and physician or optometrist;
8. Anatomy and physiology; and
9. Applicable laws and regulations.

~~C. Any applicant who fails the written or practical examination, or both examinations, shall be required to be reexamined on the failed examination(s) and shall pay the reexamination fee(s).~~

~~D. An applicant shall pass the written and practical examination within two years of the initial test date. After two years, the applicant shall file a new application and pay the required fee.~~

18VAC80-30-80. Endorsement to fit contact lenses.

The board shall administer a contact lens examination to fit contact lenses. The "Contact Lens" endorsement shall be mandatory for licensed opticians to fit contact lenses as set out in §§ 54.1-1508 and

54.1-1509 of the Code of Virginia, and the contact lens endorsement shall not be issued unless the individual's license is in good standing. ~~A contact lens endorsed optician is any Virginia licensed optician who has been endorsed by the board to fit contact lens.~~

18VAC80-30-90. Content of contact lens endorsement examination and reexamination.

A. The contact lens endorsement examination administered by the board ~~may~~ will include, but is not limited to, the following topics:

1. Rigid lens verification;
2. Lens identification;
3. ~~Keratometry~~ Keratometry;
4. Slit lamp;
5. Slides (fitting patterns, edge patterns, quality stains); and
6. Insertion/removal.

~~B. Any applicant who fails the written or practical contact lens examination, or both examinations, who desires to retake the examination(s), shall be required to be reexamined on the failed examination(s) and shall pay the reexamination fee(s).~~

~~B.~~ B. An applicant shall pass the written and practical examination ~~within two years of the initial test date approved by the board.~~ An applicant shall pass the written and practical examination within two years of the initial test date. After two years, the applicant shall file a new application and pay the required fee.

18VAC80-30-100. License renewal required.

A. Licenses issued under this chapter shall expire 24 months from the last day of the month in which the license was issued.

~~B. The board shall mail a renewal application form to the licensee at the last known mailing address. Failure to receive this notice does 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 all of the required forms and the appropriate fee to the board as outlined in 18VAC80-30-50. If the licensee fails to receive the renewal notice, a copy of the existing license shall be submitted to the board with the required fee.~~

C. Licensees shall be required to renew their license by submitting the appropriate fee made payable to the Treasurer of Virginia. Any licensee who fails to renew within 30 days after the license expires shall pay a late renewal fee, in addition to the renewal fee, as set out in 18VAC80-30-50.

D. The board, in its discretion and for just cause, may deny renewal of a license. ~~Upon~~ Before such denial, the applicant for renewal may request that a proceeding be held in accordance with the provision of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC80-30-110. Reinstatement required.

A. If a licensee fails to renew his license within 60 days after the expiration date on the license, the licensee must apply for reinstatement on a form provided by the board.

1. Individuals for reinstatement shall continue to meet the standards of entry as set out in subdivisions ~~43~~ through ~~84~~ of 18VAC80-30-20.
2. Individuals for reinstatement shall submit the required fee as set out in 18VAC80-30-50.

B. Twenty-four months after the expiration of the license, the individual may be reinstated if he can show proof of continuous, active, ethical, and legal practice ~~outside of Virginia~~. If not, the individual must show proof of completion of a board-approved review course which measures current competence. Credit will not be allowed for any ~~review~~ reinstatement course which has not been approved by the board prior to administration of the course.

C. Sixty months after the expiration of the license, the individual, who cannot show proof of continuous, active, ethical, and legal practice ~~outside of Virginia~~, shall be required to apply as a new applicant for licensure. He shall be required to meet all current education requirements and retake the board's written and practical examinations.

D. The board, in its discretion and for just cause, may deny reinstatement of a license. ~~Upon~~ Before such denial, the applicant for reinstatement may request that a proceeding be held in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

E. 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 these regulations shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of licensure as set out in this provision.

18VAC80-30-120. Lenses and frames standards.

A. ~~Power Tolerance (diopters). Licensees shall follow ANSI Z80.0 and Z87.1 standards for dress and safety eyewear.~~

Sphere: Plano to ± 6.50	$\pm .13$ diopter
Above ± 6.50	$\pm 2\%$
Cylinder: Plano to -2.00	$\pm .13$ diopter
-2.12 to -4.50	$\pm .15$ diopter
above -4.50	$\pm 4\%$

B. ~~Cylinder Axis.~~

Cyl. Power Diopters	Degrees \pm
0.12 to 0.37	7°
0.50 to 0.75	5°
0.87 to 1.50	3°
1.62 and above	2°

C. ~~Distance Optical Center. Contribution to net horizontal prism from processing should not exceed 2/3 prism diopter. A maximum of ± 2.5 mm variation from the specified distance optical center is permissible in higher power lens combinations.~~

D. ~~Prism Tolerances (Vertical). Contribution to imbalance from processing should not exceed 1/3 prism diopters. A maximum of 1.0mm difference in vertical level is permissible in higher power lens combinations.~~

E. ~~Segment Location.~~

Vertical	± 1.0 mm
Horizontal	± 2.5 mm

~~Tilt or twist in the case of a flat top segment, the tilt of its horizontal axis should be less than 1/2 mm in differential elevation between the segment edges.~~

F. ~~Multifocal Additions.~~

Plano to $+ 8.00$	$\pm .13$ diopter
Above $+ 8.00$	$\pm .18$ diopter

G. ~~Base Curve. When specified, the base curve should be supplied within ± 0.75 diopter.~~

H. ~~Warpage. The cylindrical surface power induced in the base curve of a lens should not exceed 1 diopter. This recommendation need not apply within 6mm of the mounting eyewire.~~

I. ~~Localized errors (aberration). Areas outside a 20mm radius from the specified major reference point or optical center need not be tested for aberration. Progressive lenses are exempt from this requirement.~~

18VAC80-30-130. Contact lens standards.

To fit contact lenses, the following shall be done:

1. The prescription (RX) must show evidence that contact lenses may be worn by the patient before the prescription can be filled by the licensed contact lens endorsed optician. Verbal approval from the optometrist or ophthalmologist or its agents or employees is acceptable. The licensed contact lens endorsed optician must make a notation in the patient's record of the name of the authorizing optometrist or ophthalmologist and the date of the authorization.
2. The optician must use all the following to fit contact lenses:
 - a. Slit Lamp;
 - b. Keratometer and Topographer; and
 - c. Standardized Snellen type acuity chart.

18VAC80-30-140. Display of license.

Every person to whom a current license has been granted under this chapter shall visibly display his unaltered license in a conspicuous place in plain view of the public in the principal office in which he works. A ~~duplicate~~ clear and legible copy of the license ~~which has been notarized~~ shall be posted in any branch offices.

18VAC80-30-150. Notification of change of address or name.

Notice in writing shall be given to the board in the event of any change of name or address. Such notice shall be ~~mailed~~ submitted to the board within ~~30~~ 60 days of the change of name or address. 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.

18VAC80-30-160. Grounds for disciplinary action.

A. The board is empowered to revoke, suspend, or refuse to grant or renew a license and is empowered to impose a fine up to the statutory limit, as authorized under § 54.1-202 of the Code of Virginia, per violation on a licensee for any of the following reasons:

~~1. Using nonprescribed controlled substances as defined in § 54.1-3401 of the Code of Virginia or alcohol at the work place during working hours;~~

~~2.1.~~ Displaying professional incompetence or negligence, including failure to comply with this ~~chapter part~~ in the performance of opticianry;

~~3.2.~~ Presenting false or fraudulent information on an application certifying possession of the qualifications required under 18VAC80-30-20;

~~4.3.~~ Violating or inducing others to violate any provisions of Chapter 1, 2, 3, or 15 of Title 54.1 of the Code of Virginia, or of any other statute applicable to the practice of the profession herein regulated, or of any provisions of this chapter;

~~5.4.~~ Publishing or causing to be published any advertisement related to opticianry that is false, deceptive, or misleading;

~~6.5.~~ Having been convicted in any jurisdiction of a misdemeanor in the last 3 years involving sexual offense and physical injury or a felony involving sexual offense, or physical injury, ~~or of any felony involving drug distribution, or that directly relates to crimes involving the profession of opticianry.~~ The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of opticianry. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. ~~The licensee shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the licensee to the board within 10 days after all appeal rights have expired;~~

~~7.6.~~ Having been disciplined by another jurisdiction in the practice of opticianry. Documentary evidence of such discipline shall be submitted by the licensee to the board within 10 days after all appeal rights have expired; or

~~8.7.~~ Allowing any person to engage in the practice of opticianry, except an optician apprentice or student enrolled in a course in a school of opticianry under the direct supervision of a licensed optician.

B. A finding of improper or dishonest conduct in the practice of the profession by a court of competent jurisdiction shall be cause for disciplinary action.

18VAC80-30-170. Accountability of licensee.

A licensee shall be responsible for his acts or omissions and for the acts of his agents or employees or his staff in the performance of opticianry services.

18VAC80-30-180. Approval of review Board Approved Reinstatement courses.

A. Review Reinstatement courses set out in this chapter shall be approved by the board, except those provided by institutions, schools and universities approved by the State Council of Higher Education for Virginia, ~~for which continuing education units are awarded.~~ Training Reinstatement courses requiring board approval shall be approved by the board prior to commencing in accordance with subsection B of this section.

~~B. Training activities for which experience credit may be granted must be conducted in general conformance with the International Association for Continuing Education and Training's "Criteria and Guidelines for Quality Continuing Education and Training Programs: the CEU and Other Measurement Units," 1998. The board reserves the right to waive any of the requirements of the association's guidelines on a case by case basis. Only classroom, laboratory and field trip contact time will be used to compute~~

~~training credits. No credit will be given for breaks, meals, or receptions.~~

~~1. Organization. The board will only approve training offered by a sponsor who is an identifiable organization with a mission statement outlining its functions, structure, process and philosophy, and that has a staff of one or more persons with the authority to administer training.~~

~~2. Training records. The board will only approve training offered by a sponsor who maintains training records for all participants for a minimum of five years, and who has a written policy on retention and release of training records.~~

~~3. Instructors. The board will only approve training conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.~~

~~4. Objectives. The board will only approve courses that have a series of stated objectives that are consistent with the job requirements of an optician. The training content must be consistent with these objectives.~~

~~5. Course completion requirements. For successful completion of a training program, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, self-assessment, oral examination, or other assessment technique.~~

EB. The board shall consider the following information, to be submitted by the instructor, institution, school or university on forms provided by the board, at least 45 days prior to the scheduled training activity:

1. Course information.

- a. Course title;
- b. Planned audience;
- c. Name of sponsor;
- d. Name, address, phone number of contact person;
- e. Schedule presentation dates;
- f. Detailed course schedule, hour-by-hour;
- g. List of planned breaks;
- h. Scheduled presentation location(s); and
- i. Relevancy of course to opticianry licensing: topics as listed 18VAC80-30-70.

2. Instructor qualifications.

- a. Name of instructor;
- b. Title of instructor; and
- c. Summary of qualifications to teach this course.

3. Training materials.

- a. Course objectives -- A listing of the course objectives stated in terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training;
- b. Course outline -- A detailed outline showing the planned activities that will occur during the training program, including major topics, planned presentation sequence, laboratory and field activities, audio-visual presentations, and other major activities;
- c. Course reference materials -- A list of the name, publisher and publication date for commercially available publications; for reference materials developed by the course sponsor or available exclusively through the course, a copy of the reference materials;
- d. Audio-visual support materials -- A listing of any commercially available audio-visual support material that will be used in the program; a brief description of any sponsor or instructor generated audio-visual material that will be used; and
- e. Handouts -- Identification of all commercially available handout material that will be used; copies of all other planned handouts.

4. Determination of successful completion. A description of the means that will be used to determine the successful completion of the training program by individual attendees, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

DC. Recurring training programs. If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the board may approve the overall program rather than individual presentations if so requested by the sponsor.

1. The board shall consider all of the information listed above except those items related to specific offerings of the course.
2. Board approval may be granted for a specific period of time, ~~or for an indefinite period.~~

3. Board approval will apply only to those specific offerings certified by the sponsoring organization as having been conducted by instructors meeting the established criteria and in accordance with the board-approved courses, outlines, and objectives.
4. To maintain approval of the program, changes made to the program since initial approval must be submitted to the board for review and approval. Changes must be approved by the board prior to any training subsequent to the changes.

18VAC80-30-190. Criteria for Related Technical Instruction.

A. Related Technical Instruction courses for Optician Apprenticeships set out in this chapter shall be approved by the board. Training institutions shall meet the following criteria for related technical instruction.

1. Course Information- The curriculum should, at a minimum, teach to the American Board of Opticianry – National Contact Lens Examiners ("ABO - NCLE") National Opticianry Competency Examination ("NOCE") Content Outline and Test Specifications.
2. Training Material.
 - a. Course objectives – a listing of the course objectives stated in terms of the skills, knowledge, or aptitude the participant will be able to demonstrate as a result of the instruction;
 - b. Course description – a detailed description showing the major topics, planned presentation sequence, activities, audio-visual presentations, and other major activities;
 - c. Required course materials – a list of the name, publisher, and publication date for commercially available publications; or, for reference materials developed by the program or available exclusively through the course, a copy of the reference material to be used by the participant; and
 - d. Modality of instruction.
3. Evidence satisfactory to the Board that the related technical instruction meets the minimum of 144 hours for each year of the two-year apprenticeship.
4. List of references used in course content development.
5. List of individuals, including qualifications, used in course content development.
6. List of review criteria used to ensure course content is current with ABO-NCLE NOCE Content Outline and Test Specifications.
7. A description of the means that will be used to determine the successful completion of the related technical instruction program by individuals, such as examinations, projects, personal evaluations, or other recognized evaluation techniques.

B. To maintain approval of the program, the curriculum must be submitted to the board for review and approval:

1. Every five (5) years; or
2. Thirty (30) days prior to any substantive changes to the requirements found in subsection A of this section.

Project 7493 - NOIRA

Board For Hearing Aid Specialists And Opticians

General Regulatory Reduction Initiative- Hearing Aid Specialists

18VAC80-20-10. 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 and Opticians.

"Department" means Department of Professional and Occupational Regulation.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.

"Hearing Aid instrument"

"Hearing aid specialist" means a person who engages in the practice of fitting or dealing in hearing aids as defined by 54.1-1500. or who advertises or displays a sign or represents himself as a person who practices the fitting or dealing in 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 and Opticians for the practice of fitting or dealing in hearing aids, as defined in § 54.1-1500 of the Code of Virginia.~~

"Licensed hearing aid specialist" means any person who is the holder of a hearing aid specialist license issued by the Board for Hearing Aid Specialists and Opticians.

"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.

~~18VAC80-20-20. 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.~~

18VAC80-20-30. 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;~~
 - ed. The function of hearing aids and amplification;
 - fe. Visible disorders of the ear requiring medical referrals;
 - gf. Practical tests utilized for selection or modification of hearing aids;
 - hg. Audiometric testing including Ppure tone audiometry, including air conduction, and bone conduction, and related tests; speech reception threshold testing and speech discrimination testing;
 - ~~i. Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;~~
 - jh. Masking when indicated;
 - ki. Recording and evaluating audiograms and speech audiometry to determine the proper selection and adaptation of hearing aids;
 - lj. Taking earmold impressions;
 - mk. Proper earmold selection;
 - nl. Adequate instruction in proper hearing aid orientation;
 - em. Necessity of proper procedures in after-fitting checkup; and
 - pn. 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 has not been convicted or found guilty of any crime directly related to the practice of fitting or dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor marijuana convictions and 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. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information regarding criminal convictions in Virginia and all other jurisdictions:~~
- a. All misdemeanor convictions that occurred three years or more where the applicant has a subsequent conviction involving sexual offense and physical injury; and
 - b. All felony convictions that occurred ten years or more without a subsequent conviction involving sexual offense, physical injury, drug distribution, or that directly related to the practice of fitting or dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States.

~~c. 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 18VAC80-20-70 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 this chapter.

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 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

18VAC80-20-40. 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 subdivisions ~~B-1 and B-2~~ of this section.

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.

2. 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 the date of the expiration of the temporary permit or within six months of the completion of military or Peace Corps service, whichever is later.

~~B. Every applicant for a temporary permit shall provide information upon application establishing that:~~

~~1. The applicant for a temporary permit is at least 18 years of age.~~

~~2. The applicant for a temporary permit has successfully completed high school or a high school equivalency course.~~

~~3. The applicant has not been convicted or found guilty of any crime directly related to the practice of fitting or dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor marijuana convictions and 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 18VAC80-20-70 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 this chapter.~~

B. A registered apprenticeship under the Department of Labor and Industry (DOLI) is held to be a board-approved temporary permit.

C. Audiologists are eligible for a three-year temporary permit for individuals enrolled in a post-secondary graduate program.

D. Every applicant for a temporary permit shall provide information upon application establishing that:

1. The applicant for a temporary permit is at least 18 years of age.

2. The applicant for a temporary permit has successfully completed high school or a high school equivalency course.

3. The applicant has not been convicted or found guilty of any crime directly related to the practice of fitting or dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor marijuana convictions and 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 18VAC80-20-70 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 this chapter.

GE. 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 or 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.

DE. 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. 4. The function of hearing aids and amplification;
6. ~~5.~~ Visible disorders of the ear requiring medical referrals;
7. ~~6.~~ Practical tests utilized for selection or modification of hearing aids;
8. ~~7.~~ 7. Audiometric testing including Pure tone audiometry, including air conduction, and bone conduction, and related tests; speech reception threshold testing and speech discrimination testing;
9. ~~Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;~~
10. ~~8.~~ Masking when indicated;
11. ~~9.~~ Recording and evaluating audiograms and speech audiometry to determine the proper selection and adaptation of hearing aids;
12. ~~10.~~ Taking earmold impressions;
13. ~~11.~~ Proper earmold selection;

- ~~14.12.~~ Adequate instruction in proper hearing aid orientation;
- ~~15.13.~~ Necessity of proper procedures in after-fitting checkup; and
- ~~16.14.~~ Availability of social service resources and other special resources for the hearing impaired.

~~EG.~~ 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.

~~FH.~~ All correspondence from the board to the temporary permit holder not otherwise exempt from disclosure, 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.

18VAC80-20-50. Qualifications for licensure by reciprocity endorsement.

Every applicant for Virginia licensure through reciprocity endorsement 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 endorsement with, and pay a fee to, the board, and must successfully complete the specified sections of the examination.

Applicants that can demonstrate active engagement in the profession for the preceding five years shall only be required to take the rules and regulations portion of the exam.

18VAC80-20-80. 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.~~ written examination, rules and regulations, and all portions of the practical exam.

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 two years from the initial test date must reapply as a new applicant for licensure and repeat all sections of the ~~written and practical examination-s.~~
3. If the temporary permit holder fails to achieve a passing score on any section of the examination in ~~three~~ four successive scheduled examinations, the temporary permit shall expire upon receipt of the examination failure letter resulting from the ~~third~~ fourth attempt.

18VAC80-20-90. License renewal required.

~~A. Licenses issued under this chapter shall expire on December 31 of each even-numbered year as indicated on the license~~ two years from the effective date.

B. The board will mail or email a renewal notice 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 18VAC80-20-70 of this chapter.

C. Licensees 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.

D. 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.

E. Applicants for renewal of a license shall continue to meet the standards of entry as set forth in 18VAC80-20-30 A 5 through 18VAC80-20-30 A9.

18VAC80-20-100. Procedures for renewal. (Repealed.)

~~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 18VAC80-20-70 of this chapter.~~

18VAC80-20-110. Fees for renewal. (Repealed.)

~~Licensees 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.~~

18VAC80-20-120. Board discretion to deny renewal. (Repealed.)

~~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.~~

18VAC80-20-130. Qualifications for renewal. (Repealed.)

~~Applicants for renewal of a license shall continue to meet the standards of entry as set forth in 18VAC80-20-30 A 2, 18VAC80-20-30 A 3 and, 18VAC80-20-30 A 5 through 18VAC80-20-30 A 9.~~

18VAC80-20-140. Reinstatement required.

A. 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 18VAC80-20-30 A 2, 18VAC80-20-30 A 3 and 18VAC80-20-30 A 5 through 18VAC80-20-30 A 9.~~
- ~~2. Applicants for reinstatement shall submit the required fee referenced in 18VAC80-20-70.~~
- ~~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.~~

B. 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.

C. 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.

D. 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.

18VAC80-20-150. Board discretion to deny reinstatement. (Repealed.)

~~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.~~

18VAC80-20-160. Status of license during the period prior to reinstatement. (Repealed.)

~~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.~~

18VAC80-20-210. Measures to take when first contact is established with any purchaser or prospective purchaser. (Repealed.)

~~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.~~

18VAC80-20-220. Purchase agreement.

A. Each hearing aid shall be sold through a purchase agreement that shall:

1. Show the licensee's business address, license number, business telephone number, and signature;

2. Comply with federal and Virginia laws and regulations, U.S. Food and Drug Administration (FDA) regulations, the Virginia Home Solicitation Sales Act (Chapter 2.1 (§ 59.1-21.1 et seq.) of Title 59.1 of the Code of Virginia), and the Virginia Consumer Protection Act (Chapter 17 (§ 59.1-196 et seq.) 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 nonrefundable fees established in accordance with § 54.1-1505 of the Code of Virginia. Nonrefundable fees shall not be a percentage of the purchase price of the hearing aid;

~~8. Disclose any warranty;~~

98. Explain the provisions of § 54.1-1505 of the Code of Virginia, which entitles the purchaser to return the hearing aid, in 10-point bold face type that is bolder than the type in the remainder of the purchase agreement; and

109. 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.

18VAC80-20-230. Fitting or sale of hearing aids for children.

~~A. Any person engaging in the fitting or sale of hearing aids for a child under 18 years of age shall ascertain whether such child has been examined by an otolaryngologist or licensed physician within six months prior to fitting.~~

BA. 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.

~~CB.~~ 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.

~~18VAC80-20-240. Physician statement regarding adult client's medical evaluation of hearing loss. (Repealed.)~~

~~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 18VAC80-20-200.~~

~~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.~~

18VAC80-20-250. 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 are to be made on every client with A.N.S.I. standard frequencies of 500-1000-2000-4000-6000-8000 Hertz. Intermediate frequencies shall be tested if the 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.~~ with 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 testings shall be made before fittings and shall be recorded with the 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 or 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.

18VAC80-20-270. Grounds for discipline.

The board may, in considering the totality of the circumstances, fine any temporary permit holder or licensee, and suspend, place on probation, or revoke, or refuse to renew any temporary permit or license or deny any application issued under the provisions of Chapter 15 (§ 54.1-1500 et seq.) of Title 54.1 of the Code of Virginia and this chapter. 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:
 - a. Obtaining, renewing, or attempting to obtain a license by false or fraudulent representation;
 - b. Obtaining any fee or making any sale by fraud or misrepresentation;
 - c. Employing to fit or 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;~~
 - ~~fe.~~ 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;
 - ~~gf.~~ 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
 - ~~hg.~~ Failing to provide expedient, reliable, or 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 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), and 15 (§ 54.1-1500 et seq.) of Title 54.1 of the Code of Virginia or this chapter.

6. The licensee, temporary permit holder, or applicant has been convicted or found guilty of any crime directly related to the practice of fitting or dealing in hearing aids, regardless of the manner of adjudication, in any jurisdiction of the United States. Except for misdemeanor marijuana convictions and misdemeanor convictions that occurred five three or more years prior to the date of application, with no subsequent convictions involving sexual offense and physical injury, and all felony convictions that occurred ten years or more involving sexual offense, physical injury, or drug distribution. aAll criminal convictions without a subsequent conviction 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 the purpose 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.