

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

TENTATIVE AGENDA

January 10, 2024, 9:30 a.m. – Board Room 3, Second Floor

Department of Professional and Occupational Regulation Perimeter Center
9960 Mayland Drive
Richmond, Virginia 23233

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Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position
Draft Agenda
Draft Agenda

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2024 MEETING DATES:

March 13, 2024

August 14, 2024

October 30, 2024

* 5-minute public comment period, per person, with the exception of any open disciplinary or application files. Persons desiring to attend the meeting and requiring special accommodations/interpretive services should contact the board office at 804-367- 8590 at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

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PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound. When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

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

The Board for Hearing Aid Specialists and Opticians met on Wednesday, November 8, 2023, at the Offices of the Department of Professional and Occupational Regulation, Perimeter Center, Board Room 4, 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
Bruce R. Wagner
Michael Armstrong, MD
Pamela Chavis, MD
Laura Lee Thompson
Desire'e Lewis-Nelson
Erik Meland

The following members were not present:

Stacey Brayboy
Pamela Smith

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

Stephen Kirschner, Deputy Director, Licensing & Regulatory Programs
Kelley Smith, Executive Director
Tamika Rodriguez, Regulatory Operations Administrator
Wendy Duncan, Licensing 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 a quorum present and called the meeting to order at 9:35 a.m. **CALL TO ORDER**

Ms. Green read the Department of Professional & Occupational Regulations mission and stated Board meeting reminders.

Ms. Smith, Executive Director, explained the Emergency Egress procedures for board room 2. **EMERGENCY
EGRESS**

Ms. Smith introduced a new Board member, Ms. Desire'e Lewis-Nelson

NEW BOARD MEMBER INTRODUCTION

The Board took the agenda under consideration.

APPROVAL OF AGENDA

Upon a motion by Ms. Thompson and seconded by Ms. Young, the Board voted to approve the agenda.

The members voting 'yes' were Ms. Green, Ms. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Mr. Armstrong, Ms. Chavis, Ms. Thompson, and Ms. Lewis-Nelson.

There were no negative votes. The motion carries.

The Board took the minutes from the June 21, 2023, Board meeting under consideration.

APPROVAL OF MINUTES CONSIDERED AS A BLOCK

Upon a motion by Mr. Armstrong and seconded by Ms. Chavis the board voted to approve the minutes as presented.

The members voting 'yes' were Ms. Green, Ms. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Mr. Armstrong, Ms. Chavis, Ms. Thompson, and Ms. Lewis-Nelson.

There were no negative votes. The motion carries.

There were no public comments.

PUBLIC COMMENT

CASES

In the matter of **File Number 2024-00182, Julia Looney**, Board members reviewed the Informal Fact-Finding Conference transcript and exhibits.

Licensing File Number 2024-00182, Julia Looney

Julia Looney did not appear at the meeting in person, by counsel, or by any other qualified representative.

Upon a motion by Ms. Young and seconded by Mr. Armstrong, the Board voted to accept the recommendation and approve the license.

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The members voting 'yes' were Ms. Green, Ms. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Mr. Armstrong, Ms. Chavis, Ms. Thompson, and Ms. Lewis-Nelson.

There were no negative votes. The motion carries.

Mr. Meland arrived at 9:53 a.m.

Arrival of Board Member

REPORTS

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

Licensing Statistics

The Board requested Staff to provide the full calendar year regulant population reports.

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

Examination Statistics

The Board discussed test scores. Ms. Smith stated test scores will be a topic of discussion for the Exam Review Committee. Staff will contact committee members with a committee meeting date.

Ms. Green asked the Board to review the regulatory report that was provided in the agenda.

Regulatory Report

The Board did not have questions.

REGULATORY ACTION AND BOARD GUIDANCE

Ms. Smith requested the Board withdraw the ANSI fast-track regulation and proceed with revising the lenses and frame standards as part of the proposed phase of the general regulatory review for opticians.

Optician Lenses and Frame Standards

The board discussed ANSI Standards and general regulatory review for opticians.

Upon a motion by Ms. All and seconded by Mr. Meland, the Board voted to withdraw the ANSI fast-track regulation and proceed with revising the lenses and frame standards as part of the proposed phase of the general regulatory review for opticians.

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The members voting 'yes' were Ms. Green, Ms. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Mr. Armstrong, Ms. Chavis, Ms. Thompson, Ms. Lewis-Nelson, and Mr. Meland.

There were no negative votes. The motion carries.

OLD BUSINESS

Ms. Smith informed the Board, the Exam Director, Mr. Emerson has sent a letter to ABO addressing concerns from Optical Alliance. A reply from ABO has not been received, when received the reply will be listed as an agenda item for the next meeting.

Follow up on ABO Letter

NEW BUSINESS

Ms. Smith recommended the Board adopt a continuance policy for disciplinary cases going before the board and asked the Board to review the draft continuance policy in the agenda.

Continuance Policy

The Board discussed the continuance policy.

Upon a motion by Ms. Chavis and seconded by Mr. Armstrong, the Board voted to adopt the policy on continuances with amendments.

The members voting 'yes' were Ms. Green, Ms. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Mr. Armstrong, Ms. Chavis, Ms. Thompson, Ms. Lewis-Nelson, and Mr. Meland.

There were no negative votes. The motion carries.

RESOLUTIONS

Ms. Green read the resolution of Melissa Gill.

Melissa Gill

Commonwealth of Virginia

Materials contained in this agenda are proposed for discussion and are not to be construed as resolution of Official Board position



**Department of Professional and Occupational
Regulation**

Board for Hearing Aid Specialists and Opticians

Resolution To

Melissa Gill

WHEREAS, Melissa Gill faithfully and diligently served as a member of the Virginia Board for Hearing Aid Specialists and Opticians from 2016 to 2023; and

WHEREAS, Melissa Gill has given generously of her knowledge, time, and talent to the Board, including serving as a member of the Board's Optician Apprenticeships Committee, the Board's Opticians Examination Committee, and providing expertise to the Board as needed; and

WHEREAS, Melissa Gill endeavored always to protect the health, safety, and well-being of the public by rendering fair and wise decisions, which were in the best interest of the Board and the Commonwealth's citizens; and

WHEREAS, the Board for Hearing Aid Specialists and Opticians acknowledges its gratitude and deepest appreciation for the devoted service of Melissa Gill, who is highly regarded by the members of the Board and the citizens of the Commonwealth.

NOW, THEREFORE, BE IT RESOLVED, by the Board for Hearing Aid Specialists and Opticians this eighth day of November, in the year two-thousand and twenty-three, that Melissa Gill be given all honors and respect due her for her outstanding service to the Commonwealth, its citizens, and the Board for Hearing Aid Specialists and Opticians; and

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BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held.

The Board agreed to this resolution by consensus.

Ms. Green read the resolution of Saman Aghaebrahim.

Saman Aghaebrahim

Commonwealth of Virginia



**Department of Professional and Occupational
Regulation**

Board for Hearing Aid Specialists and Opticians

Resolution To

Saman Aghaebrahim

WHEREAS, Saman Aghaebrahim faithfully and diligently served as a member of the Virginia Board for Hearing Aid Specialists and Opticians from 2021 to 2023; and

WHEREAS, Saman Aghaebrahim has given generously of his knowledge, time, and talent to the Board, including serving as a member of the Board's Regulatory Review Committee, and providing expertise to the Board as needed; and

WHEREAS, Saman Aghaebrahim endeavored always to protect the health, safety, and well-being of the public by rendering fair and wise decisions, which were in the best interest of the Board and the Commonwealth's citizens; and

WHEREAS, the Board for Hearing Aid Specialists and Opticians acknowledges its gratitude and deepest appreciation for the devoted service of Saman Aghaebrahim, who is highly regarded by the members of the Board and the citizens of the Commonwealth.

NOW, THEREFORE, BE IT RESOLVED, by the Board for Hearing Aid Specialists and Opticians this eighth day of November, in the year two-thousand and twenty-three, that Saman Aghaebrahim be given all honors and respect due him for his outstanding service to the Commonwealth, its citizens, and the Board for Hearing Aid Specialists and Opticians; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held.

The Board agreed to this resolution by consensus.

Ms. Green invited all Board members to participate in the Conflict of Interest Act Training. The Board members who completed the training were Ms. Green, Ms. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Mr. Armstrong, Ms. Chavis, Ms. Thompson, Ms. Lewis-Nelson, and Mr. Meland.

**CONFLICT OF
INTEREST ACT
TRAINING**

Ms. Green informed the Board the next scheduled Board meeting is January 10, 2024.

**Next Schedule Board
Meeting**

There being no further business, the meeting adjourned at 10.39 a.m.

Adjourn

Kristina Green, Chair

Kishore S. Thota, Board Secretary

Dear Colleague,

This letter serves to provide an important update about the International Licensing Examination for Hearing Healthcare Professionals (ILE). Following a typical maintenance schedule for high-stakes examinations, IHS has adopted a new Competency Model (blueprint) for the ILE which is the written licensing exam used for hearing aid specialists in 43 U.S. states and 5 Canadian provinces. The Competency Model shows the topics covered on the exam and their respective weights (the proportion of the exam devoted to each topic).

The process for creating a new Competency Model is rigorous and involves Subject Matter Experts (SMEs) from IHS' ILE Committee, International Institute for Hearing Instrument Studies (IIHIS; IHS' Education Committee), and Board of Governors engaging in activities supported by IHS' contracted psychometrics firm, Alpine Testing Solutions. First, the ILE Committee uses their collective expertise to create a rough exam outline based on the tasks that are performed on the job for an entry-level hearing aid specialist. They are guided by parameters that state what an entry-level hearing aid specialist is expected to be able to do and not do (for example, cerumen removal would not be appropriate for inclusion).

Following the creation of their outline, a survey (formally called a "Job-Task Analysis") was sent out across the profession to attain feedback on the draft from hearing healthcare professionals. The survey asked respondents to state the frequency they perform many on-the-job tasks as well as the criticality (that is, the risk associated with incorrect performance) of each task. Further, respondents were able to describe any job-related tasks that were missing from the outline. After the survey was completed, the results were analyzed by Alpine Testing Solutions. The ILE Committee then considered the survey results against their original drafted outline to produce a final recommendation.

The final recommended Competency Model was sent up the chain of command to the IIHIS for approval. Lastly, the IHS Board of Governors approved the new Competency Model in August 2023. Because the new Competency Model changes the outline of the ILE, the preparatory materials that feed into the ILE will be updated as well. The final exam for IHS' Distance Learning for Professionals in Hearing Health Sciences course is mapped to the same blueprint as the ILE, so that will be updated as will all the relevant information in the ILE Test Prep platform.

The updated Competency Model goes into effect on January 1, 2024. There are only minor changes from the previous version that has been in use since 2016. This Competency Model process is generally undertaken every five to seven years.

This important update will be communicated to all examinees via the ILE Study Guide and the IHS website. The new Competency Model can be found on the next two pages and also on the IHS website at <https://bit.ly/IHS-competency-model>. With questions about the Competency Model, the process of its creation, or the ILE in general, contact IHS' Director of Professional Development at ssharpe@ihsinfo.org or (734) 412-7572.

Thank you for your attention to this matter.

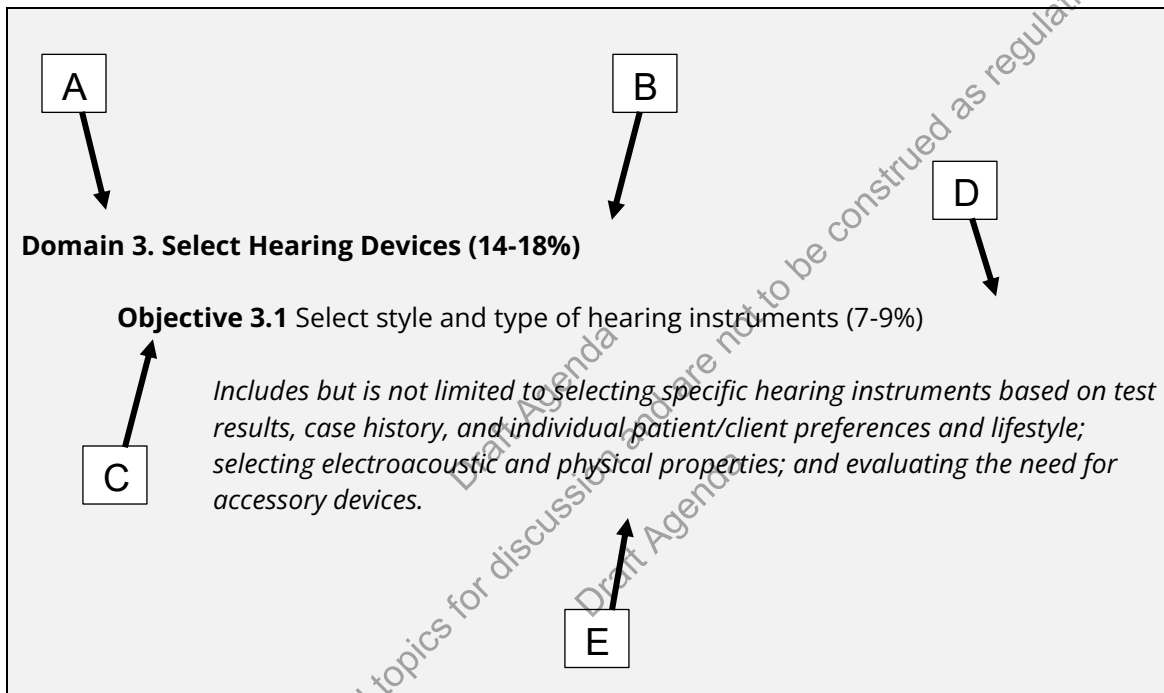
Sincerely,

A handwritten signature in black ink that reads 'Sierra C. Sharpe'.

Sierra C. Sharpe, MBA
Director of Professional Development

COMPETENCY MODEL STRUCTURE AND TERMINOLOGY
for the International Licensing Examination for Hearing Healthcare Professionals

Effective January 1, 2024



- A. **Domain:** Broad areas of practice assessed on the exam.
- B. **Domain Weight:** The percent of items on the exam that fall within the Domain.
- C. **Objective:** Specific elements of the Domain that are assessed on the exam. Each exam item is written to target a specific Objective.
- D. **Objective Weight:** The percent of items on the exam that fall within the Objective.
- E. **Additional Objective Information:** Illustrative examples of the types of knowledge, skills, and abilities assessed by items within the Objective.

Domain 1. Conduct Patient/Client Assessment (21%)

Objective 1.1 Apply infection control protocols (5%)

Includes but is not limited to choosing appropriate infection control processes for tools and equipment; observing universal precautions for infection control; distinguishing between single- and multiple-use items; differentiating among sanitization, disinfection and sterilization processes; and identifying personal protective equipment.

Objective 1.2 Apply otoscopic inspection protocols (5%)

Includes but is not limited to observing safety protocols during otoscopy; identifying anatomical structures; identifying abnormalities through otoscopic inspection; and recognizing the presence of referral criteria. This objective helps provide evidence of the candidate's ability to perform otoscopy.

Objective 1.3 Utilize audiometric testing protocols (11%)

Includes but is not limited to performing air and bone conduction threshold and suprathreshold testing; performing speech audiometry; performing effective masking; and applying principles to include interpreting results of tympanometry/immittance audiometry. This objective helps provide evidence of the candidate's ability to perform audiometric testing and application of tympanometry.

Domain 2. Interpret and Apply Assessment Results (22%)

Objective 2.1 Interpret and explain audiometric results (11%)

Includes but is not limited to demonstrating an understanding of referral criteria; interpreting pure tone and speech testing results; identifying the need for additional testing; identifying the degree and configuration of hearing loss; and identifying the type of hearing loss.

Objective 2.2 Determine candidacy for amplification (11%)

Includes but is not limited to interpreting the case history and outlining contraindications to hearing instrument use.

Domain 3. Select Hearing Devices (18%)

Objective 3.1 Select style and type of hearing instruments (9%)

Includes but is not limited to establishing fitting goals and selecting specific hearing instruments based on test results, case history, and individual patient/client preferences and lifestyle; selecting electroacoustic and physical properties; and evaluating the need for accessory devices.

Objective 3.2 Select earmold or other acoustic coupler (9%)

Includes but is not limited to assessing physical properties of the outer ear, taking ear impressions, critiquing ear impressions, and selecting coupler based on patient/client needs.

Domain 4. Fit and Dispense Hearing Devices (20%)

Objective 4.1 Utilize protocols to fit hearing instruments and other devices (10%)

Includes but is not limited to confirming physical and acoustic integrity of hearing devices; programming and adjusting hearing devices; verifying physical fit and acoustic comfort; orienting patient/client to hearing instruments; and orienting patient/client to assistive devices. This objective helps provide evidence of the candidate's ability to program and dispense hearing instruments and other devices.

Objective 4.2 Verify fitting (5%)

Includes but is not limited to selecting verification method based on patient/client; assessing physical and acoustic integrity of hearing devices; interpreting and explaining verification results; and modifying physical and acoustic parameters of device. This objective helps provide evidence of the candidate's ability to perform fitting verification (e.g., speech mapping, REM).

Objective 4.3 Validate fitting (5%)

Includes but is not limited to selecting validation method based on patient/client; interpreting and explaining validation results; and modifying physical and acoustic parameters of device. This objective helps provide evidence of the candidate's ability to perform fitting validation (e.g., questionnaire, self-assessment).

Domain 5. Provide Continuing Care (19%)

Objective 5.1 Implement aural rehabilitation and counseling (8%)

Includes but is not limited to demonstrating an understanding of the psychology of the hearing impaired; defining and managing patient/client expectations for improved communication; defining and managing family/caregiver expectations for improved communication; and identifying communication strategies.

Objective 5.2 Apply instrument maintenance and troubleshooting protocols (9%)

Includes but is not limited to employing hearing instrument cleaning procedures; performing listening checks on hearing instruments; troubleshooting acoustic properties of hearing instruments; and adjusting based upon changes in patient/client hearing loss and/or listening needs. This objective helps provide evidence of the candidate's ability to maintain and troubleshoot instrument performance.

Objective 5.3 Interpret electroacoustic analysis results (2%)

Includes but is not limited to identifying need for electroacoustic analysis and comparing electroacoustic analysis of patient's/client's hearing instruments to fitting specifications.

Hearing Aid Specialists and Opticians BOARD STATISTICS

Licenses and Temporary Permits Issued	1-1-2022 To 12-31-2022	1-1-2023 to 12-1-2023
Hearing Aid Specialist by Exam	52	56
Hearing Aid Specialist Doctor of Audiology Exam Waived	29	34
Hearing Aid Specialist by Reciprocity	4	10
Hearing Aid Specialist Temporary Permits	45	42
Optician by Exam	30	38
Optician by Reciprocity	7	8
CLE by Exam	0	3
CLE by Reciprocity	1	2
Optician License App Criminal History Review (Pass Matrix)	0	0
Regulant Populations	1-1-2022 To 12-31-2022	1-1-2023 To 12-1-2023
Hearing Aid Specialist Temporary Permits	46	54
Hearing Aid Specialists	854	828
Opticians	1,798	1,730

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HEARING AID SPECIALISTS

GENERAL EXAM STATISTICS REPORT - PRACTICAL

EXAM DATE	TOTAL			FIRST TIME			RE-EXAM			TOTAL EXAMINEES SCHEDULED
	EXAMS TAKEN	EXAMS PASSED	PERCENT PASSED	EXAMS TAKEN	EXAMS PASSED	PERCENT PASSED	EXAMS TAKEN	EXAMS PASSED	PERCENT PASSED	
NOV 2023	12	08	66.66%	07	05	71.42%	05	03	60.00%	12
							EXAMS TAKEN	EXAMS PASSED	PERCENT PASSED	
	CONTENT DESCRIPTION									
	AUDIOMETRIC						10	07	70.00%	
	MAINTENANCE AND REPAIR						09	07	77.77%	
	SPEECH TESTING						09	07	77.77%	
	EARMOLD IMPRESSIONS						08	07	87.50%	

HEARING AID SPECIALISTS

GENERAL EXAM STATISTICS REPORT – WRITTEN

EXAM DATE	CONTENT DESCRIPTION	TOTAL		PERCENT PASSED
		EXAMS TAKEN	EXAMS PASSED	
NOV 1 THROUGH DEC 31, 2023	RULES & REGULATIONS	N/A		
	ILE -THEORY	N/A		

NOTE: WRITTEN: NOVEMBER 1-DECEMBER 31, 2023 (STATS WILL BE REPORT AT FIRST BOARD MEETING IN 2024)

OPTICIANS STATISTICS REPORT

COMPUTER BASE TESTING (CBT)

EXAM DATE WRITTEN-ABO	TOTAL EXAMS TAKEN	TOTAL EXAMS PASSED	TOTAL PERCENTAGE PASSED
OCT – NOV. 2023	03	03	100.00%
OPTICIAN PRACTICAL			
OCT – NOV. 2023	07	05	71.14%

EXAMS
12/11/2023
RSTARR

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Board for Hearing Aid Specialists and Opticians
Current Regulatory Actions
as of January 10, 2024

In the Governor's Office

None

In the Secretary's Office

None

At Department of Planning and Budget (DPB)/OAG

None

Public Comment:

None

Completed Public Comment and awaiting proposed regulatory stage:

VAC	Stage	Subject Matter	Date Public Comment period begins and ends.	Notes
18 VAC 80-20	NOIRA	General review of Hearing Aid Specialists regulations	Public comment period began on 10/9/2023 and ends on 11/8/2023 1 Comment	A general review of the hearing aid specialists' regulations was necessary due to the Executive Directive Number One (2022). The board reviewed and ensured the regulations provides minimum burdens on regulants while still protecting the public.
18 VAC 80-30	NOIRA	Opticians Fee Increase	Public comment period began on 10/9/2023 and ends on 11/8/2023 0 Comments	Amend the opticians regulations to adjust the application, renewal, late renewal, and reinstatement fees for optician licenses.
18 VAC 80-30	NOIRA	General review of Opticians regulations	Public comment period began on 10/9/2023 and ends on 11/8/2023 0 Comments	A general review of the opticians' regulations was necessary due to the Executive Directive Number One (2022). The board reviewed and ensured the regulations provides minimum burdens on regulants while still protecting the public.

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Completed Public Comment and awaiting final regulatory stage:

VAC	Stage	Subject Matter	Date Public Comment period begins and ends.	Notes
18 VAC 80-20	Proposed	Amendment to expand training options for applicants	Public comment period began on 09/11/2023 and ends on 11/10/2023 0 comments	The temporary permit rules were amended in the hearing aid specialists' regulations. The board also created an additional method for qualifying for a hearing aid specialists' license.

Recently effective and awaiting publication

None

Recently effective

None

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TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: KELLEY SMITH, EXECUTIVE DIRECTOR
SUBJECT: AMENDMENT TO EXPAND TRAINING OPTIONS FOR APPLICANTS
DATE: DECEMBER 14, 2023

Attached you will find the draft final regulations for the Amendment to Expand Training Options for Applicants. Please review the attached draft regulations. After the board approves the final regulations, the last stage of the regulatory review begins.

If you have any suggested edits, please bring them up during the meeting.

In order to make any changes to the final regulations, the board will need to make a motion to amend any change.

Once the board is satisfied with the final regulations, it can approve them with a motion to “approve the draft final regulations [as amended].”

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Project 6712 - Proposed

Board For Hearing Aid Specialists And Opticians

Amendment to Expand Training Options for Applicants

18VAC80-20-30. Basic qualifications for licensure.

A. Every applicant for a license shall provide information on his an 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 and that the applicant has completed at least six months of experience under the temporary permit; ~~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; or
 - c. An apprenticeship completion form from the Virginia Department of Labor and Industry reflecting completion of a registered apprenticeship, including all required related instruction, or an equivalent out-of-state registered apprenticeship.

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.

6. The applicant is in good standing as a licensed hearing aid specialist in every jurisdiction where licensed. The applicant must disclose if ~~he~~ the applicant 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~~ the applicant has been previously licensed in Virginia as a hearing aid specialist.

7. The applicant has disclosed ~~his~~ the applicant's 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~~ 18 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~~ the temporary permit holder's 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~~ the applicant 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~~ the applicant has been licensed previously in Virginia as a hearing aid specialist.
5. The applicant for a temporary permit has disclosed ~~his~~ the applicant's 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.

C. The licensed hearing aid specialist who agrees to sponsor the applicant for a temporary permit shall certify on the application that as sponsor, ~~he~~ the licensed hearing aid specialist:

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; and

5. Will not refer the temporary permit holder for testing until they have completed at least six months of training under the permit.

D. The licensed sponsor shall provide training and shall ensure that the temporary permit holder under ~~his~~ the licensed sponsor's 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.

E. 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.

F. 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.

Materials contained in this agenda are proposed for discussion and are not to be consulted as regulation or official Board position

Project 6712 - Proposed

Board For Hearing Aid Specialists And Opticians

Amendment to Expand Training Options for Applicants

18VAC80-20-30. Basic qualifications for licensure.

A. Every applicant for a license shall provide information on his an 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 **and that the applicant has obtained at least six months of experience as a temporary permit holder**; ~~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;
 - c. An apprenticeship completion form from the Virginia Department of Labor and Industry reflecting completion of a registered apprenticeship, including all required related instruction, or an equivalent out-of-state registered apprenticeship; ~~or~~

d. For applicants who are enrolled in a graduate audiology program, the documentation required by subdivision 4 b of this subsection. If the requirements of subdivision 3 of this subsection are not met, then a statement on a form provided by the board signed by the licensed sponsor certifying that the requirements have been met as a temporary permit holder.

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.

6. The applicant is in good standing as a licensed hearing aid specialist in every jurisdiction where licensed. The applicant must disclose if ~~he~~ the applicant 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~~ the applicant has been previously licensed in Virginia as a hearing aid specialist.

7. The applicant has disclosed ~~his~~ the applicant's 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 ~~42 months and may be extended once for not longer than six~~ 18 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~~ the temporary permit holder's 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~~ the applicant 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~~ the applicant has been licensed previously in Virginia as a hearing aid specialist.

5. The applicant for a temporary permit has disclosed ~~his~~ the applicant's 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.

C. The licensed hearing aid specialist who agrees to sponsor the applicant for a temporary permit shall certify on the application that as sponsor, ~~he~~ the licensed hearing aid specialist:

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; and
5. Will not certify the temporary permit holder is eligible for testing until the temporary permit holder has completed all required training.

D. The licensed sponsor shall provide training and shall ensure that the temporary permit holder under ~~his~~ the licensed sponsor's 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.

E. 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.

F. 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.



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: KELLEY SMITH, EXECUTIVE DIRECTOR
SUBJECT: RESPONSES TO THE GENERAL REVIEW OF HEARING AID
SPECIALISTS REGULATIONS NOIRA PUBLIC COMMENTS AND
APPROVAL OF PROPOSED LANGUAGE
DATE: DECEMBER 1, 2023

At the June 21, 2023 meeting, the Board approved a Notice of Intended Regulatory Action to initiate a General Review of the Hearing Aid Specialists Regulations. The public comment period on the NOIRA is complete, and it is now time for the Board to consider public comments and adopt proposed regulations.

Attached you will find a list of comments received during the public comment period for the NOIRA stage of the Board's General Review of the Hearing Aid Specialists Regulations. "Type of Comment" is a summary of the comments and then there is a proposed response from the Board for these comments. The Board will need to approve responses for these comments at the meeting.

The Board can adopt these proposed responses by making a motion to adopt the proposed responses as written [OR as amended if there are changes].

You will also find attached a copy of the proposed language that needs to be adopted by the Board. Based on the public comment received, please be prepared to discuss whether the Board would like to an exception to the temporary permit requirements for audiology graduate students in their internship to take the exam before six months of training has been completed.

If the Board concurs with the proposed regulations, the Board can vote to "adopt the proposed hearing aid specialists regulations [OR as amended if there are changes]."

Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position
Draft Agenda
Draft Agenda



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Agency Department of Professional and Occupational Regulation

Board Board for Hearing Aid Specialists and Opticians

Chapter Hearing Aid Specialists Regulations [[18 VAC 80 - 20](#)]

Action	General Review of Hearing Aid Specialists Regulations
Stage	NOIRA
Comment Period	Ended on 11/8/2023

[Back to List of Comments](#)

Commenter: Danny W. Gnewikow, Ph.D., LLC

11/7/23 4:22 pm

Minor revision suggestions for this document.

1. **18VAC80-20-10 Definition: B. The definition of audiologists should not be removed from section B**, especially now that there is so much confusion within the "insurance community" between allowable services which can be rendered by a licensed hearing aid specialist as compared with those allowable services provided by licensed audiologists for diagnostic hearing and balance testing. Multiple insurance companies who do not understand the distinction between audiologists and HAS are now stating that advanced diagnostic audiology testing must be done through their "contracted" hearing aid fitter provider TPR (Third Party Payor) companies, many of which are not staffed with licensed audiologists. If the word "audiologist" is listed in **Section A**, it should be defined in **Section B**, especially when the word "audiologist" is also mentioned in the revised **18VAC80-20-270 f. e.** defining disciplinary action.
2. It has always been our understanding that a "non-audiologist HAS" is not permitted by law to perform any audiological testing services other than air/bone audiometry, speech threshold, and speech discrimination. Additionally, it has been our understanding that such basic HAS testing is not billable to the patient or their insurance. The purpose of the HAS audiometry testing is only for the fitting of a hearing aid and NOT for diagnostic purposes.
 - a. I believe it is evident that the Board has recognized this limitation of HAS services in **18VAC80-20-30 h. g.** where the words "and-related-tests" have been struck through.
3. **18VAC80-20-40 Temporary Permit:** In section 1, there should be some written accommodation for audiology graduate students in their internship year/period to be allowed to take the examination if they request this during this time without waiting until the standard minimum 6 month's training time as specified in **former Section C, now Section E. 5.**
4. ***Lastly, myself and my staff of 7 audiologists are quite pleased with all of the extensive revisions that have been made in these HAS Board Regulations, and we***

applaud you for your thoughtful and extensive re-examination as it relates to current hearing aid practices and revised Federal Regulations.

Danny W. Gnewikow, Ph.D., Audiologist, CCC, FAAA

Hearing Aid Specialist License #2101-000232

Audiology License # 2201-000057

CommentID: **220622**

Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position

Draft Agenda

Draft Agenda

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Summary of Comments to the General Review of Hearing Aid Specialists Regulations

Following is the summary of comments received during the public comment period (October 9, 2023 – November 8, 2023) regarding the Board’s general regulatory review of the Hearing Aid Specialists Regulations. The comments below represent comments received on the regulation. During the public comment period, the Board received one comment.

	Regulation *18 VAC 80-20	Summary of Comment(s)	Draft Board Response
	Commenter		
1	CommentID: 220622 Danny W. Gnewikow, Ph.D., LLC (TownHall)	Audiologist should not be removed from the definitions because of the confusion in allowable services that can be rendered by a licensed hearing aid specialist as compared with those allowable services provided by licensed audiologists for diagnostic hearing and balance testing.	Thank you for your comment. The Board removed the definitions for terms that are currently defined in the Code of Virginia and incorporated these definitions by reference. The scope of practice for an audiologist is further defined in §54.1-2600 of the Code of Virginia and is regulated by the Department of Health Professions.
2	CommentID: 220622 Danny W. Gnewikow, Ph.D., LLC (TownHall)	There should be some accommodation for audiology graduate students in their internship year to be allowed to take the examination without waiting until the standard minimum 6 months' training time.	Thank you for your comment. The Board will consider your comments as it continues through the regulatory process.

Materials contained in this agenda are proposed and are subject to change. Draft Agenda items for discussion and are not to be construed as regulatory or official Board position.

Project 7493 - NOIRA

Board For Hearing Aid Specialists And Opticians

General Review of Hearing Aid Specialists Regulations

Chapter 20

Board for Hearing Aid Specialists Regulations

18VAC80-20-10. Definitions.

A. Section 54.1-1500 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

Audiologist

Board

Hearing aid

Licensed hearing aid specialist

Licensed physician

Practice of audiology

Practice of fitting or dealing in hearing aids

Prescription hearing aid

Sell or sale

Temporary permit

B. 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.~~

"ANSI" means the American National Standards Institute.

~~"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 specialist" means a person who engages in the practice of fitting or dealing in hearing aids 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.~~

~~"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. (Repealed.)

~~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;~~
 - ~~e. d.~~ The function of hearing aids and amplification;
 - ~~f. e.~~ Visible disorders of the ear requiring medical referrals;
 - ~~g. f.~~ Practical tests utilized for selection or modification of hearing aids;
 - ~~h. g.~~ Pure Audiometric testing including pure 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;~~
 - ~~j. h.~~ Masking when indicated;
 - ~~k. i.~~ Recording and evaluating audiograms and speech audiometry to determine the proper selection and adaptation of hearing aids;
 - ~~l. j.~~ Taking earmold impressions;
 - ~~m. k.~~ Proper earmold selection;
 - ~~n. l.~~ Adequate instruction in proper hearing aid orientation;
 - ~~o. m.~~ Necessity of proper procedures in after-fitting checkup; and
 - ~~p. n.~~ 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 and the applicant has at least six months of experience under the temporary permit; ~~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; or

Materials contained in this document are proposed for discussion and do not constitute a regulation of the Official Board position

c. An apprenticeship completion form from the Virginia Department of Labor and Industry reflecting completion of a registered apprenticeship, including all required related instruction or an equivalent out-of-state registered apprenticeship.

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. Misdemeanor convictions that occurred within three years of the date of application involving sexual offense and physical injury; and

b. Felony convictions involving sexual offense, physical injury, drug distribution, or felony convictions involving the practice of fitting or dealing in hearing aids.

c. 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.

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 hearing aid specialist profession.

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.~~
A post office box may be provided as a secondary address.

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~~ D 1 and D 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~~ 18 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 ~~the temporary permit holder's~~ 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 three 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. 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 the applicant 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.

5. The applicant for a temporary permit has disclosed the applicant's physical address. A post office box may be provided as a secondary address.

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.

E. The licensed hearing aid specialist who agrees to sponsor the applicant for a temporary permit shall certify on the application that as sponsor, he the licensed hearing aid specialist:

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; and

5. Will not refer the temporary permit holder for testing until they have completed at least six months of training under their permit.

D. F. The licensed sponsor shall provide training and shall ensure that the temporary permit holder under ~~his~~ the licensed sponsor's 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.~~ Pure 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.

E. G. 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.

F. H. 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.

A. 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.

B. 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~~ examinations.

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. Licenseses 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.

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.)

~~Licenseses 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. 1. Applicants for reinstatement shall submit the required fee referenced in 18VAC80-20-70.~~

~~3. 2. 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. 2. 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. 3. 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. 4. Disclose the full purchase price;~~
- ~~6. 5. Disclose the down payment and periodic payment terms in cases where the purchase price is not paid in full at delivery;~~
- ~~7. 6. 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;~~

~~9. 7.~~ 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

~~10. 8.~~ 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 ~~40~~ A 8 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.~~

~~B. A.~~ 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.

~~C. B.~~ 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 ~~A.N.S.I.~~ are to be made on every client with ANSI 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 ANSI 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;~~
- f. e. 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. f.~~ 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. g.~~ 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. ~~all~~ All 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.

Materials contained in this agenda are for informational purposes only and are not to be considered a regulation or official Board position



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: KELLEY SMITH, EXECUTIVE DIRECTOR
SUBJECT: RESPONSES TO THE GENERAL REVIEW OF OPTICIANS
REGULATIONS NOIRA PUBLIC COMMENTS AND APPROVAL OF
PROPOSED LANGUAGE
DATE: DECEMBER 1, 2023

At the June 21, 2023 meeting, the Board approved a Notice of Intended Regulatory Action to initiate a General Review of the Optician Regulations. The public comment period on the NOIRA is complete, and it is now time for the Board to consider public comments and adopt proposed regulations.

Attached you will find a list of comments received during the public comment period for the NOIRA stage of the Board's General Review of the Optician Regulations. "Type of Comment" is a summary of the comments and then there is a proposed response from the Board for these comments. The Board will need to approve responses for these comments at the meeting.

The Board can adopt these proposed responses by making a motion to adopt the proposed responses as written [OR as amended if there are changes].

You will also find attached a copy of the proposed language that needs to be adopted by the Board.

If the Board concurs with the proposed regulations, the Board can vote to "adopt the proposed hearing aid specialists regulations [OR as amended if there are changes]."

Please come to the meeting prepared to discuss.

Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position
Draft Agenda
Draft Agenda



National Association of
Retail Optical Companies
Professionalism Consumerism Education

November 2, 2023

Kelley Smith, Executive Director
Virginia Board for Hearing Aid Specialists and Opticians
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Henrico, Virginia 23233

Sent via email: HASOPT@dpor.virginia.gov

RE: General /Review of Optician Regulations – 18 VAC 80-30

Dear Executive Director Smith and Members of the Board,

On behalf of the National Association of Retail Optical Companies (NAROC) (formerly the National Association of Optometrists & Opticians – NAOO), a national organization representing the retail optical industry and its thousands of employed opticians, I write today to present NAROC's suggestions regarding the proposed rule changes in the General Review of Opticians Regulations.

NAROC is consumer-service oriented, dedicated to the proposition that the consumer's visual care needs are met most completely and economically by the free market, in the tradition of the American business system. NAROC members collectively include nearly 9000 co-located eye care offices and optical dispensaries serving millions of patients and eyewear customers each year providing high quality services and products. Our members have over 225 locations in the Commonwealth of Virginia.

NAROC member companies offer consumers the convenience of optical dispensaries (staffed with opticians) that are co-located with eye care services from independent eye care providers (typically optometrists) who prescribe corrective eyewear and perform eye health examinations, including those via telehealth technology. Most NAROC members also offer e-commerce optical retailing to customers, including both contact lenses and eyeglasses. Our suggestions comport with the mandate in Executive Directive Number One (2022) to reduce unnecessary restrictions on practice and are consistent with laws of the Commonwealth.

Our first suggestion relates to 18 VAC 80-30-30 and the proposed standards for an out of state licensee to apply for licensure. The proposal requires that "the requirements and standards under which the license was issued are substantially equivalent to and not conflicting with the provisions of this chapter." Seeking equivalency to what existed for the applicant at the time of their licensure to what the Commonwealth of Virginia requires at the time of the application may ensure that few of these licenses will be granted. Requirements change over time and the applicant should not be disadvantaged by that difference. An existing license in good standing should be accepted without the necessity of proving equivalency. We recommend that this provision be amended to simply require that the applicant present a current license in good standing, along with the required fees, and based on that, be granted a license by the Board.

P.O. Box 498472, Cincinnati, OH 45249
(513) 607-5153

Second, we would like to suggest an additional change to 18 VAC 80-30-30 that would open the practice of opticianry to more qualified, experienced and certified persons. We propose that the Board add a section to provide an avenue for those who come from unlicensed states, but have at least the amount of experience as required for in-state apprentices and have passed the necessary examinations, to apply for and obtain a license.

The standard in Virginia is a two-year apprentice and passage of the required exams (ABO/NCLE). As such, we recommend that the Board add a provision that anyone with two years of documented continuous experience and passage of the ABO and/or NCLE exams, as appropriate for the type of license sought, be granted a license in Virginia.

We propose that the additional wording as a new paragraph "C." read as follows:

C. For an applicant who is applying for licensure based on credentials and experience, the applicant shall have an active certification as a dispensing optician under the ABO and/or the NCLE, as appropriate, and at least two (2) years of experience as a dispensing optician, as verified by both the applicant and by a sponsor with personal knowledge of the applicant's work history.

Finally, while 18 VAC 30-60 and -70 speak in terms of the examination(s) for licensure, they do not name the accepted exam. Other materials available to applicants describe the examinations as those of the ABO and/or NCLE. Because of that, we suggest that the Board identify the examinations in the regulations. If the Board feels the need for some flexibility in this regard, it could use wording such as "the examinations offered by the American Board of Opticianry and/or the National Contact Lens Examiners, or such other tests or organizations as approved by the Board."

Thank you for this opportunity to comment. We would be pleased to have a conversation with the Board or appropriate Agency personnel to discuss these ideas or alternatives that make sense to the Department. We request that our comment be made a part of the rule review record.

Very truly yours,

Joseph B. Neville

Joseph B. Neville
Executive Director
director@NAROCvision.org

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Summary of Comments to the General Review of Opticians Regulations

Following is the summary of comments received during the public comment period (October 9, 2023 – November 8, 2023) regarding the Board’s general regulatory review of the Optician Regulations. The comments below represent comments received on the regulation. During the public comment period, the Board received one comment.

	Regulation *18 VAC 80-30	Summary of Comment(s)	Draft Board Response
	Commenter		
1	Joseph B. Neville, Executive Director of the National Association of Retail Optical Companies (Email)	<p>The proposal for standards for an out-of-state licensee requires that the requirements and standards under which the license was issued are substantially equivalent to and not conflicting with the provisions of this chapter. Seeking equivalency to what existed for the applicant at the time of their licensure to what Virginia requires at the time of application ensures few out of state licenses will be granted. An existing license in good standing should be accepted without the necessity of proving equivalency.</p> <p>Suggests the Board add a section to provide an avenue for those who come from unlicensed states, but have at least the amount of experience as required for in-state apprentices and have passed the necessary examinations. The Board should add a provision that anyone with two years of documented continuous experience and passage of the ABO and/or NCLE exams be granted a license in Virginia.</p>	<p>Thank you for your comment. The current methods of qualification for an out of state applicant in 18 VAC 80-30-30 require an individual to successfully complete a board-approved two-year course in a school of opticianry or a two-year registered apprenticeship program in accordance with the standards established by the state Department of Labor and Industry. These current standards are difficult for applicants to meet, as the Board has interpreted what may constitute a “board approved two-year course in a school of opticianry” to mean a school of opticianry accredited by the Commission on Opticianry Accreditation. Additionally, there are very few registered apprenticeship programs in the United States. The Board proposed to loosen the requirements and allow for applicants licensed as an optician in good standing in another jurisdiction to establish that their education is substantially equivalent to Virginia’s requirements found in 18 VAC 80-30-20(5).</p> <p>Additionally, licensure by endorsement is only one method by which an optician licensed in another state may apply for licensure in Virginia.</p> <p>Out-of-state licensees may also apply for licensure in Virginia by Universal License Recognition found in the Code of Virginia at § 54.1-205. This allows for licensure in Virginia if the applicant: holds a current and valid professional license in another state in a profession with a similar scope of practice; has held the professional license in the other state for at least three years; the board in the other state required the individual to pass an examination and meet certain standards related to education, training or experience; there are no pending investigations or unresolved complaints against the</p>

			<p>applicant and the applicant is in good standing; the applicant does not have a disqualifying criminal records; there is no discipline in another state; and the individual pays all fees.</p> <p>Universal License Recognition also allows a pathway for unlicensed applicants if: the applicant worked in another state that does not use a professional license to regulate a profession with a similar scope of practice; the applicant has worked in the profession for at least three years; the applicant passes any examination required by the Board; the applicant does not have a disqualifying criminal history; the applicant does not have discipline imposed in another state; and the applicant pays all applicable fees.</p>
2	Joseph B. Neville, Executive Director of the National Association of Retail Optical Companies (Email)	The Board should identify the accepted examinations in the regulations.	Thank you for your comment. The Board does not include the specific examinations that are accepted for licensure to maintain flexibility in choosing vendors and examinations that ensure minimum competency of licensees.

DRAFT

Materials contained in this agenda are proposed topics for discussion and are not to be construed as the official Board position

Draft Agenda

Draft Agenda

Project 7491 - NOIRA

Board For Hearing Aid Specialists And Opticians

General Review of Opticians Regulations

Chapter 30

Opticians Regulations

18VAC80-30-10. Definitions.

A. Section 54.1-1500 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

Board

Licensed optician

Licensed optometrist

Licensed physician

Optician

Opticianry

B. 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; The 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.

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. Misdemeanor convictions that occurred within three years of the date of application involving sexual offense and physical injury; and
 - b. Felony convictions involving sexual offense, physical injury, drug distribution, or felony convictions involving the profession of opticianry.
 - c. 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.

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; a post office box may be provided as a secondary 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 subdivisions A 1 through A 4 of 18VAC 80-30-20; 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 and shall pay the reexamination fee.

B. The optician examination given by the board 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).~~

~~C. 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 ~~4 through 8~~ 3 and 4 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 ~~examination~~ 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 (dipters)-for Single Vision and Multifocal Lenses(dipters).

Sphere: Plano to ± 6.50	± 0.13 diopter
Above ± 6.50 <u>Stronger than ± 6.50</u>	$\pm 2\%$
Cylinder: Plano to $- 2.00$	± 0.13 diopter
-2.12 to -4.50 <u>>-2.00 to -4.50</u>	± 0.15 diopter
above -4.50 <u>Greater than -4.50</u>	$\pm 4\%$

B. Power Tolerance for Progressive Addition Lenses (dipters).

Sphere: Plano to ± 8.00	± 0.16 diopter
<u>Stronger than ± 8.00</u>	$\pm 2\%$
Cylinder: Plano to -2.00	± 0.16 diopter
<u>> -2.00 to -3.50</u>	± 0.18 diopter
<u>Greater than -3.50</u>	$\pm 5\%$

~~B-C.~~ Cylinder Axis.

Cyl. Power Dipters	Degrees \pm
0.12 to -0.37 <u>0.12 to -0.25</u>	$7^{\circ} \pm 14^{\circ}$
<u>>-0.25 to -0.50</u>	$\pm 7^{\circ}$

0.50 – 0.75	> -0.50 to -0.75	$\pm 5^\circ$
0.87 – 1.50	> -0.75 to -1.50	$\pm 3^\circ$
1.62 and above	Greater than -1.50	$\pm 2^\circ$

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. Prism Reference Point Location and Power Tolerances. The prismatic power measured at the prism reference point should not exceed 1/3 prism diopters or the prism reference point shall not be more than 1.0mm away from its specified position in any direction.

E. Prismatic Imbalance Tolerance in mounted Single Vision and Multifocal eyewear.

Refractive Power	Tolerance
Plano to ± 3.375 D	No more than 0.33 prism diopters vertically
Greater than ± 3.375 D	No more than 1mm difference in height of PRP
Plano to ± 2.75 D	No more than 0.67 prism diopters horizontally
Greater than ± 2.75 D	No more than 2.5mm from specified interpupillary distance

F. Prismatic Imbalance Tolerance in mounted Progressive Addition Lens eyewear.

Refractive Power	Tolerance
Plano to ± 3.375 D	No more than 0.33 prism diopters vertically
Greater than ± 3.375 D	No more than 1mm difference in height of PRP
Plano to ± 3.375 D	No more than 0.67 prism diopters horizontally
Greater than ± 3.375 D	No more than 1mm from specified monocular pupillary distance

E.G. Segment Location and Fitting Cross Vertical Location and Segment Tilt.

Multifocals:	Tolerance
Vertical Segment height for each lens	± 1.0 mm
Horizontal Difference between segments heights in mounted pair	± 2.5 mm 1.0 mm
<u>Progressive Addition Lenses:</u>	
Fitting Cross height for each lens	± 1.0 mm
Difference between fitting cross heights in mounted pair	± 1.0 mm
Horizontal tilt for each lens using permanent reference markings	± 2 degrees

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.H. Multifocal Additions and Progressive Addition Lens Addition Power Tolerances.

<u>Plane + 8.00D Nominal Value of Addition Power</u>	<u>±.13 diopter to ±4.00D</u>	<u>+4.00D and above</u>
<u>Above + 8.00D Tolerance on Addition Power</u>	<u>±.18 diopter to ±0.12</u>	<u>±0.18</u>

G.I. Base Curve Tolerance. 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.

J. Center Thickness Tolerance. When specified, the center thickness should be within ±0.3mm measured at the prism reference point of the convex surface.

I.K. 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. Areas outside a 30mm diameter from the distance reference point or within 6mm from the edge, need not be tested for local power errors or aberrations. Progressive addition lenses are exempt from this requirement.

L. Prescription Dress Eyewear Impact Resistance. All lenses must conform to the impact resistance requirements of Title 21, Code of Federal Regulations 801.410 (CFR 801.410).

M. Axis of Polarization. The actual plan of transmittance shall be at 90 ± 3 degrees from the intended direction of horizontal orientation of polarization marking.

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 part chapter 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 the licensee's acts or omissions and for the acts of his the licensee's agents or employees or his the licensee's 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 those 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.~~

~~B. 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.

D. C. 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.

Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or other Board position

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TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: KELLEY SMITH, EXECUTIVE DIRECTOR
SUBJECT: OPTICIANS FEE INCREASE
DATE: JANUARY 10, 2024

Attached you will find the proposed fee increase language for the Opticians regulations. The board initiated the fee increase regulatory action at the December 2022 board meeting. The board received no comments regarding the fee increase during the public comment period. The Callahan Act requires all Boards under DPOR to balance their revenue and expenditures. According to the DPOR Revenue section, the fee increase is essential to cover board expenses.

The board can adopt the proposed language for the Opticians fee increase with a motion " to approve the proposed fee increase regulations."

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Draft Agenda

Draft Agenda

Project 7598 - NOIRA

Board For Hearing Aid Specialists And Opticians

OPT Fee Adjustment 2023

Chapter 30

Opticians Regulations

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. 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 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 <u>\$125</u>	With application
Application for contact lens certification	\$400 <u>\$125</u>	With application
Renewal	\$100 <u>\$125</u>	Up to the expiration date on the license with a 30-day grace period
Late renewal (includes renewal fee)	\$125 <u>\$150</u>	Between 30 and 60 days after the expiration date on the license
Reinstatement (includes renewal and late renewal fees)	\$225 <u>\$275</u>	After 60 days following the expiration date on the license

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TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: KELLEY SMITH, EXECUTIVE DIRECTOR
SUBJECT: FINANCIAL STATEMENTS
DATE: DECEMBER 18, 2023

Attached you will find the most recent Statement of Financial Activity and the Supporting Statement of Year-to-Date Activity for the Board. Additionally, you will find the Agency Statement of Financial Activity.

Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Board for Hearing Aid Specialists and Opticians
954240**

2022-2024 Biennium

November 2023

	November 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - November 2021	July 2022 - November 2023
Cash/Revenue Balance Brought Forward			0
Revenues	5,565	186,830	189,401
Cumulative Revenues			189,401
Cost Categories:			
Board Expenditures	1,214	23,770	26,635
Board Administration	3,474	54,709	56,350
Administration of Exams	1,722	31,311	9,709
Enforcement	34	620	651
Legal Services	0	578	336
Information Systems	2,087	39,104	36,686
Facilities and Support Services	759	20,140	12,997
Agency Administration	2,604	24,981	39,335
Other / Transfers	0	0	(31)
Total Expenses	11,893	195,213	182,666
Transfer To/(From) Cash Reserves	0	0	(16,761)
Ending Cash/Revenue Balance			23,496

Cash Reserve Beginning Balance	(62,163)	0	(45,402)
Change in Cash Reserve	0	0	(16,761)
Ending Cash Reserve Balance	(62,163)	0	(62,163)

Number of Regulants

Current Month	2,612
Previous Biennium-to-Date	2,662

Department of Professional and Occupational Regulation
Supporting Statement of Year-to-Date Activity
Board for Hearing Aid Specialists and Opticians-954240
Fiscal Year 2024

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal YTD Charges	Planned Annual Charges	Current Balance	Projected Charges at 6/30	Projected Variance Favorable (Unfavorable)	
																	Amount	%
Board Expenditures	807	917	1,798	984	1,214	0	0	0	0	0	0	0	5,721	18,109	12,388	13,482	4,627	25.6%
Board Administration	3,258	3,143	4,696	1,652	3,474	0	0	0	0	0	0	0	16,223	51,856	35,633	33,934	17,922	34.6%
Administration of Exams	1,536	1,802	2,561	856	1,722	0	0	0	0	0	0	0	8,476	23,571	15,096	17,984	5,587	23.7%
Enforcement	33	35	52	19	34	0	0	0	0	0	0	0	173	538	365	365	173	32.1%
Legal Services	0	0	0	0	0	0	0	0	0	0	0	0	0	336	336	0	336	100.0%
Information Systems	1,414	3,300	2,675	1,864	2,087	0	0	0	0	0	0	0	11,340	29,140	17,800	26,245	2,895	9.9%
Facilities / Support Svcs	736	710	1,110	632	759	0	0	0	0	0	0	0	3,947	15,916	11,969	9,113	6,803	42.7%
Agency Administration	2,219	2,386	3,814	1,278	2,604	0	0	0	0	0	0	0	12,300	31,921	19,621	26,497	5,423	17.0%
Other / Transfers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Charges	10,003	12,292	16,705	7,285	11,893	0	0	0	0	0	0	0	58,179	171,387	113,207	127,621	43,766	25.5%

**Department of Professional and Occupational Regulation
Statement of Financial Activity**

Agency Total

2022-2024 Biennium

November 2023

	November 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - November 2021	July 2022 - November 2023
Cash/Revenue Balance Brought Forward			3,453,476
Revenues	1,452,198	28,173,075	28,903,785
Cumulative Revenues			32,357,261
Cost Categories:			
Board Expenditures	164,190	2,331,007	2,769,730
Board Administration	412,675	6,325,666	6,699,985
Administration of Exams	27,668	424,370	413,277
Enforcement	652,841	9,806,773	10,610,089
Legal Services	12,082	334,496	319,323
Information Systems	254,198	4,640,041	4,502,424
Facilities and Support Services	146,863	2,740,053	2,717,763
Agency Administration	317,154	2,960,420	4,795,477
Other / Transfers	0	4,890	565
Total Expenses	1,987,669	29,567,716	32,828,634
Transfer To/(From) Cash Reserves	(85,579)	0	(2,810,155)
Ending Cash/Revenue Balance			2,338,782

Cash Reserve Beginning Balance	15,269,374	0	17,993,950
Change in Cash Reserve	(85,579)	0	(2,810,155)
Ending Cash Reserve Balance	15,183,795	0	15,183,795

Number of Regulants

Current Month	321,940
Previous Biennium-to-Date	308,696