

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

TENTATIVE AGENDA

March 13, 2024, 9:30 a.m. – Board Room 2, Second Floor

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

- I. CALL TO ORDER**
- II. EMERGENCY EVACUATION PROCEDURES**
- III. NEW BOARD MEMBER INTRODUCTION**
- IV. APPROVAL OF AGENDA**
 - A. Board for Hearing Aid Specialists and Opticians Meeting Agenda, March 13, 2024
- V. APPROVAL OF MINUTES**
 - A. Board for Hearing Aid Specialists and Opticians Minutes from January 10, 2024
- VI. PUBLIC COMMENT PERIOD***
- VII. REPORTS**
 - A. Licensing Statistics
 - B. Examination Statistics
 - C. Regulatory Report
- VIII. REGULATORY ACTION AND BOARD GUIDANCE**
 - A. Approval of Final Language for Amendment to Expand Training Options for Applicants
- IX. TRAINING**
 - A. Regulatory and Legislative Training
- X. REMINDERS**
 - A. New Board Member Training Conference, October 10 & 11, 2024
- XI. ADJOURN**

* 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.

2024 MEETING DATES:

August 14, 2024
October 30, 2024

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. **(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.

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 **(Point)**, 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. **(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.

Training Room 1

Exit the room using one of the doors at the back of the room. **(Point)** 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. **(Point)** 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, January 10, 2024, at the Offices of the Department of Professional and Occupational Regulation, Perimeter Center, Board Room 3, 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 Wagner
Michael Armstrong, MD
Pamela Chavis, MD
Erik Meland

The following members were not present:

Stacey Brayboy
Pamela Smith
Laura Lee Thompson
Desire'e Lewis-Nelson

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

Kishore Thota, Director
Brian Wolford, Deputy Director
Stephen Kirschner, Licensing & Regulatory Programs Deputy Director
Kelley Smith, Executive Director
Joseph Haughwout, Regulations Affairs Manager
Wendy Duncan, Licensing Operations Administrator
Heather Garnett, Administrative Coordinator

A representative from the Office of the Attorney General was present.

Ms. Green, Chair, determined a quorum present and called the meeting to order at 9:40 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 3.

**EMERGENCY
EGRESS**

Ms. Smith introduced Brian Wolford, DPOR Deputy Director.

**NEW BOARD
STAFF
INTRODUCTION**

The Board took the agenda under consideration.

**APPROVAL OF
AGENDA**

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

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

The Board took the minutes from the November 8, 2023, Board meeting under consideration.

**APPROVAL OF
MINUTES**

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

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Smith called the Boards attention to the letter from IHS in the electronic agenda regarding the update to the competency model effective January 1, 2024.

COMMUNICATION

There were no public comments.

**PUBLIC
COMMENT**

At 9:45 a.m., Dr. Ogilvie moved that this meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation and/or briefings by staff members pertaining to examination issues within the jurisdiction of the public body as permitted by §2.2-3711(A)12 of the Code of Virginia. The following non-members will be in attendance to reasonable aid the consideration of the topic: Ms. Smith, Ms. Garnett, Mr. Kirshner, Ms. Peay and Mr. Wolford. This motion is made with respect to the matters identified as agenda item VII – ABO-NCLE letter discussing examination issues and development. Ms. Young seconded the motion which was approved by members Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

CLOSED SESSION

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

At 10:14 a.m., Dr. Ogilvie read the Certification of Closed Meeting:

OPEN SESSION
CERTIFICATION
OF CLOSED
MEETING

WHEREAS, the Board for Hearing Aid Specialists and Opticians has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board for Hearing Aid Specialists and Opticians hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

Roll Call Vote

AYES: Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

NAYS: 0

REPORTS

Ms. Garnett presented the licensing statistics that were provided in the electronic agenda.

Licensing Statistics

Ms. Duncan presented the examination statistics that were provided in the electronic agenda.

Examination Statistics

The Board discussed Optician re-exam test.

Ms. Smith presented the current regulatory actions that was provided in the electronic agenda.

Regulatory Report

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

**REGULATORY
ACTION AND
BOARD
GUIDANCE**

Ms. Smith presented the Board with amendments to the final draft language to expand training options for applicants.

The Board discussed the amendments.

Upon a motion by Dr. Ogilvie and seconded by Mr. Wagner the Board voted to gather additional information regarding training options for a vote at the next Board meeting.

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Smith presented the Board with proposed responses to the public comments received during the NOIRA stage of the Board's General Review of the Hearing Aid Specialists Regulations.

Upon a motion by Mr. Meland and seconded by Ms. Young the Board voted to adopt the proposed responses.

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Smith discussed the proposed language with the Board for the Hearing Aid Specialists general regulatory review.

Upon a motion by Dr. Ogilvie and seconded by Mr. Wagner the Board voted to adopt the proposed stage language.

The Board discussed the proposed stage language.

Upon a motion by Dr. Ogilvie and seconded by Mr. Wagner the Board voted to adopt the proposed stage language with an amendment.

**Approval of Final
Language for
Amendment to
Expand Training
Options for
Applicants
Regulatory Action**

**Proposed Responses
to General Review of
Hearing Aid
Specialist Public
Comments on
NOIRA
and
Approval of
Proposed Stage
Language**

Materials contained in this agenda are proposed topics for discussion and are not to be construed as official Board position
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The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Smith presented the Board with proposed responses to the public comments received during the NOIRA stage of the Board's General Review of the Opticians Regulations.

Upon a motion by Ms. Young and seconded by Ms. All the Board voted to adopt the proposed responses.

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Smith discussed the proposed language with the Board for the Opticians general regulatory review.

Upon a motion by Ms. All and seconded by Mr. Meland the Board voted to adopt the proposed stage language.

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Smith informed the Board that no comments regarding the fee increase were received during the public comment period and requested the Board approve the Optician fee change proposed language.

Upon a motion by Ms. Young and seconded by Ms. All the Board voted to approve the proposed stage language for the Optician fee increase regulation.

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

**Proposed Responses
to General Review of
Opticians Public
Comments on
NOIRA
and
Approval of
Proposed Stage
Language**

**Optician Fee Change
Approval of
Proposed Stage
Language**

Materials contained in this agenda are proposed items for discussion and are not to be considered a final position
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NEW BUSINESS

Ms. Smith requested the Board extend the contract with ABO/NCLE by six months.

Exam Services
Contract Extension

Upon a motion by Mr. Meland and seconded by Ms. All, the Board voted to extend DPOR's existing contract with ABO/NCLE for six additional months.

The members voting 'yes' were Ms. Green, Dr. Ogilvie, Ms. All, Ms. Young, Mr. Wagner, Dr. Armstrong, Dr. Chavis, and Mr. Meland.

There were no negative votes. The motion carries.

Ms. Green informed the Board the next scheduled Board meeting is March 13, 2024.

Next Schedule Board Meeting

There being no further business, the meeting adjourned at 11:12 a.m.

Adjourn

Kristina Green, Chair

Kishore S. Thota, Board Secretary

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Hearing Aid Specialists and Opticians BOARD STATISTICS

Licenses and Temporary Permits Issued	1-1-2023 To 12-31-2023	1-1-2024 To 2-13-2024
Hearing Aid Specialist by Exam	50	1
Hearing Aid Specialist Doctor of Audiology Exam Waived	34	1
Hearing Aid Specialist by Reciprocity	11	3
Hearing Aid Specialist Temporary Permits	46	4
Optician by Exam	34	0
Optician by Reciprocity	10	0
CLE by Exam	2	0
CLE by Reciprocity	2	0
Optician License App Criminal History Review (Pass Matrix)	0	0
Regulant Populations	12-31-2023	1-1-2024
Hearing Aid Specialist Temporary Permits	54	52
Hearing Aid Specialists	828	829
Opticians	1,730	1,729

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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	
FEB 2024	13	04	30.76%	07	03	42.85%	06	01	16.66%	13
CONTENT DESCRIPTION							EXAMS TAKEN	EXAMS PASSED	PERCENT PASSED	
AUDIOMETRIC							11	06	54.54%	
MAINTENANCE AND REPAIR							08	08	100.00%	
SPEECH TESTING							09	06	66.66%	
EARMOLD IMPRESSIONS							08	07	87.50%	

HEARING AID SPECIALISTS

GENERAL EXAM STATISTICS REPORT – WRITTEN

EXAM DATE	CONTENT DESCRIPTION	TOTAL		
		EXAMS TAKEN	EXAMS PASSED	PERCENT PASSED
NOV 1 THROUGH DEC 31, 2023	RULES & REGULATIONS	07	06	85.71%
	ILE -THEORY	10	06	60.00%

NOTE: Written Stats for February-March 2024 will be available for the August 14, 2024 Board Meeting.

OPTICIANS STATISTICS REPORT

COMPUTER BASE TESTING (CBT)

EXAM DATE WRITTEN-ABO	TOTAL EXAMS TAKEN	TOTAL EXAMS PASSED	TOTAL PERCENTAGE PASSED
DECEMBER 2023	05	05	100.00%
JANUARY 2024	06	04	66.66%
OPTICIAN PRACTICAL			
DECEMBER 2023	03	02	66.66%
JANUARY 2024	11	06	54.54%

EXAMS
2/26/2024
RSTARR

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Board for Hearing Aid Specialists and Opticians
Current Regulatory Actions
as of March 13, 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	File Proposed Stage by	Notes
18 VAC 80-20	NOIRA to Proposed Stage.	General review of Hearing Aid Specialists regulations	5/6/24 The board staff is allotted a period of 180 days to submit proposed regulations for executive branch review.	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 to Proposed Stage.	General review of Opticians regulations	5/6/24 The board staff is allotted a period of 180 days to submit proposed regulations for executive branch review.	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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18 VAC 80-30	NOIRA to Proposed Stage.	Opticians Fee Increase	5/6/24 The board staff is allotted a period of 180 days to submit proposed regulations for executive branch review.	Amend the opticians regulations to adjust the application, renewal, late renewal, and reinstatement fees for optician licenses.
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Completed Public Comment and awaiting final regulatory stage:

VAC	Stage	Subject Matter	File Proposed Stage by	Notes
18 VAC 80-20	Proposed to Final Stage	Amendment to expand training options for applicants	5/8/24 The board staff is allotted a period of 180 days to submit final regulations for executive branch review.	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: JANUARY 31, 2024

Attached you will find the draft final regulations for the Amendment to Expand Training Options for Applicants. Please review the attached draft regulations.

The suggested language edits at the last meeting regarding an exemption from the six months experience under a temporary permit for audiology graduate students have been changed to meet the temporary permit language that was approved at the January 10, 2024, Board meeting for the general regulatory review. It appears that the Regulatory Review Committee addressed the concerns in the general review, but it was not applied to the proposed regulations to expand training options for applicants. After the board approves the final regulations, the last stage of the regulatory review begins.

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 Virginia Department of Workforce Development and Advancement] 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~~ 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~~ 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.]~~

[~~B. A registered apprenticeship under the Virginia Department of Workforce Development and Advancement is held to be a board-approved temporary permit.]~~

[~~C. Audiology students enrolled in a post-secondary graduate program are eligible for a three-year temporary permit.]~~

[~~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.]

[~~C.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 the permit [, unless the temporary permit holder is an audiology student enrolled in a post-secondary graduate program.]

[~~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. 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.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.

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

Draft Agenda

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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

c. An apprenticeship completion form from the [Virginia Department of Labor and Industry Industry Virginia Department of Workforce Development and Advancement] 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 Virginia Department of Workforce Development and Advancement is held to be a board-approved temporary permit.

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

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.

~~G. 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, unless the temporary permit holder is an audiology student enrolled in a post-secondary graduate program.

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

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

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

~~The board will mail a renewal application form to the licensee at the last known address. Failure to receive this notice shall not relieve the licensee of the obligation to renew. Prior to the expiration date shown on the license, each licensee desiring to renew his license must return to the board all required forms and the appropriate fee as outlined in 18VAC80-20-70 of this chapter.~~

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

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

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

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

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

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

18VAC80-20-140. Reinstatement required.

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

- ~~1. Applicants for reinstatement shall continue to meet the standards of entry in 18VAC80-20-30 A 2, 18VAC80-20-30 A 3 and 18VAC80-20-30 A 5 through 18VAC80-20-30 A 9.~~
- ~~2. 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 4~~ 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.



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: KELLEY SMITH, EXECUTIVE DIRECTOR
SUBJECT: FINANCIAL STATEMENTS
DATE: FEBRUARY 21, 2024

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

Draft Agenda

Draft Agenda

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

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

2022-2024 Biennium

December 2023

	December 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - December 2021	July 2022 - December 2023
Cash/Revenue Balance Brought Forward			0
Revenues	7,540	196,965	196,941
Cumulative Revenues			196,941
Cost Categories:			
Board Expenditures	1,970	25,476	28,604
Board Administration	5,119	57,832	61,468
Administration of Exams	2,574	33,181	12,282
Enforcement	52	657	702
Legal Services	150	578	486
Information Systems	2,550	39,793	39,236
Facilities and Support Services	966	21,202	13,962
Agency Administration	3,652	26,547	42,987
Other / Transfers	(0)	(0)	(31)
Total Expenses	17,031	205,266	199,697
Transfer To/(From) Cash Reserves	0	0	(16,761)
Ending Cash/Revenue Balance			14,005

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	2,610
Previous Biennium-to-Date	2,669

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	Projected Variance Favorable (Unfavorable) %
Board Expenditures	807	917	1,798	984	1,214	1,970	0	0	0	0	0	0	7,691	18,109	10,418	15,174	2,935	16.2%
Board Administration	3,258	3,143	4,696	1,652	3,474	5,119	0	0	0	0	0	0	21,342	51,856	30,514	38,516	13,341	25.7%
Administration of Exams	1,536	1,802	2,561	856	1,722	2,574	0	0	0	0	0	0	11,049	23,571	12,522	20,134	3,437	14.6%
Enforcement	33	35	52	19	34	52	0	0	0	0	0	0	225	538	313	408	130	24.2%
Legal Services	0	0	0	0	0	150	0	0	0	0	0	0	150	336	186	300	36	10.7%
Information Systems	1,414	3,300	2,675	1,864	2,087	2,550	0	0	0	0	0	0	13,890	29,140	15,250	26,971	2,169	7.4%
Facilities / Support Svcs	736	710	1,110	632	759	966	0	0	0	0	0	0	4,913	15,916	11,003	9,525	6,391	40.2%
Agency Administration	2,219	2,386	3,814	1,278	2,604	3,652	0	0	0	0	0	0	15,952	31,921	15,969	29,385	2,536	7.9%
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	17,031	0	0	0	0	0	0	75,211	171,387	96,176	140,414	30,973	18.1%

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

Agency Total

2022-2024 Biennium

December 2023

	December 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - December 2021	July 2022 - December 2023
Cash/Revenue Balance Brought Forward			3,453,476
Revenues	1,589,989	30,038,709	30,493,775
Cumulative Revenues			33,947,251
Cost Categories:			
Board Expenditures	191,552	2,483,939	2,961,282
Board Administration	604,608	6,691,884	7,304,593
Administration of Exams	41,361	450,273	454,638
Enforcement	983,706	10,426,857	11,593,795
Legal Services	24,574	351,097	343,897
Information Systems	308,634	4,722,938	4,811,058
Facilities and Support Services	204,708	2,903,850	2,922,472
Agency Administration	441,950	3,148,632	5,237,426
Other / Transfers	(11)	4,862	554
Total Expenses	2,801,082	31,184,333	35,629,716
Transfer To/(From) Cash Reserves	(721,373)	0	(3,531,415)
Ending Cash/Revenue Balance			1,848,950

Cash Reserve Beginning Balance	15,183,908	0	17,993,950
Change in Cash Reserve	(721,373)	0	(3,531,415)
Ending Cash Reserve Balance	14,462,535	0	14,462,535

Number of Regulators

Current Month	319,658
Previous Biennium-to-Date	308,696