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NEW JERSEY ADMINISTRATIVE CODE  
TITLE 13  
LAW AND PUBLIC SAFETY  
CHAPTER 35  
SUBCHAPTER 8  
HEARING AID DISPENSERS

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## TABLE OF CONTENTS

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<b>SUBCHAPTER 8. HEARING AID DISPENSERS .....</b>	<b>3</b>
<b>13:35-8.1 PURPOSE .....</b>	<b>3</b>
<b>13:35-8.2 DEFINITIONS .....</b>	<b>3</b>
<b>13:35-8.3 TRAINING AND EXPERIENCE REQUIREMENTS .....</b>	<b>4</b>
<b>13:35-8.4 TRAINING PERMITS; ISSUANCE AND PRACTICE .....</b>	<b>5</b>
<b>13:35-8.5 TEMPORARY LICENSES; ISSUANCE.....</b>	<b>5</b>
<b>13:35-8.6 TEMPORARY LICENSES; PRACTICE.....</b>	<b>6</b>
<b>13:35-8.7 SPONSORS.....</b>	<b>6</b>
<b>13:35-8.8 SCOPE OF PRACTICE .....</b>	<b>7</b>
<b>13:35-8.9 FITTING AND DISPENSING OF DEEP EAR CANAL HEARING AID DEVICES.....</b>	<b>8</b>
<b>13:35-8.10 SUPERVISING LICENSEE .....</b>	<b>9</b>
<b>13:35-8.11 NOTIFICATION TO THE COMMITTEE; BIENNIAL LICENSE RENEWAL; LICENSE SUSPENSION; REINSTATEMENT OF SUSPENDED LICENSE; INACTIVE STATUS; RETURN FROM INACTIVE STATUS .....</b>	<b>9</b>
<b>13:35-8.12 EQUIPMENT.....</b>	<b>11</b>
<b>13:35-8.13 HEARING TESTING.....</b>	<b>11</b>
<b>13:35-8.14 ADVERTISING AND SOLICITATION.....</b>	<b>12</b>
<b>13:35-8.15 ABANDONMENT; EXCESSIVE FEES.....</b>	<b>13</b>
<b>13:35-8.16 ITEMIZATION OF SERVICES AND EQUIPMENT; RETENTION OF RECORDS.....</b>	<b>13</b>
<b>13:35-8.17 LICENSING EXAMINATION .....</b>	<b>14</b>
<b>13:35-8.18 VIOLATION OF THE RULES .....</b>	<b>15</b>
<b>13:35-8.19 FEE SCHEDULE.....</b>	<b>15</b>
<b>13:35-8.20 LICENSE RENEWAL; CONTINUING EDUCATION REQUIREMENT .....</b>	<b>16</b>

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## **SUBCHAPTER 8. HEARING AID DISPENSERS**

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### **13:35-8.1 PURPOSE**

The rules in this subchapter are established pursuant to N.J.S.A. 45:9A-7 and govern the licensing and the practice of hearing aid dispensing in the State of New Jersey.

### **13:35-8.2 DEFINITIONS**

The following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Act" means the New Jersey Hearing Aid Dispensers Act, N.J.S.A. 45:9A-1 et seq. as amended and/or supplemented.

"Advertisement" means any attempt, directly or indirectly, by publication, display, dissemination or circulation, in print or electronic media, which induces or attempts to induce any person to purchase or enter into an agreement to purchase a hearing aid, services and/or merchandise from a licensee.

"Board" means the State Board of Medical Examiners.

"Committee" means the Hearing Aid Dispensers Examining Committee.

"Hearing aid" means a hearing aid as defined by N.J.S.A. 45:9A-2(c) and includes the earmold system.

"Licensee" means any person who has been duly issued a license to fit and dispense hearing aids in accordance with N.J.S.A. 45:9A-1 et seq. and this subchapter.

"Place of practice" means the actual physical location of the office and business address from which the licensee conducts his or her business and where relevant books and records are maintained.

"Sponsor" means any person holding a valid license pursuant to N.J.S.A. 45:9A-1 et seq. for two or more years who is deemed qualified by the Committee to instruct, train and supervise in the requisite skills, methods and techniques so as to insure competency in the fitting and dispensing of hearing aids and who has assumed the responsibilities for supervising and training in accordance with N.J.S.A. 45:9A-16 and the provisions of this subchapter.

"Temporary license" means a temporary license as defined by N.J.S.A. 45:9A-16(a) and the provisions of this subchapter.

"Training permit" means a temporary license as defined by N.J.S.A. 45:9A-16(b) and the provisions of this subchapter.

### **13:35-8.3 TRAINING AND EXPERIENCE REQUIREMENTS**

- a) An applicant for licensure as a hearing aid dispenser shall submit one of the following to the Committee:
  - 1) Proof of completion of a minimum of six months continuous or interrupted training within a 24-month period ending with the deadline for making application to take the next examination;
  - 2) Proof of successful completion of a college curriculum in hearing aid selection and fitting approved by the Committee and/or the Commission on Higher Education; or
  - 3) Proof of successful completion of a master's degree in audiology from an American Speech Language Hearing Association accredited college or university after January 1, 1993.
- b) An individual, including a New Jersey licensed audiologist, who has met training and experience requirements set forth in (a) above shall not dispense a hearing aid as defined by N.J.A.C. 13:35-8.8 until he or she passes the written and practical examination administered by the Committee, unless the individual is under supervision as the holder of a training permit or a temporary license.
- c) No person shall commence training as a hearing aid dispenser until such time as he or she has received a training permit. The training period shall be calculated to have commenced on the date the permit is issued.

- d) Upon being issued a training permit, the trainee shall train in the same office or business location as that of his or her sponsor and in the physical presence of the sponsor. The training shall consist of the following:
- 1) 40 hours of training with an audiometer;
  - 2) 160 hours of hearing aid dispensing procedures, including the taking of earmold impressions, the alteration of earmolds and hearing aids, and application and fitting techniques;
  - 3) Reading all the books and articles relating to hearing aid dispensing specified in a list formulated by the Committee.
- e) No trainee shall be permitted to sell, fit or dispense hearing aids or to engage in the potential fitting or dispensing of hearing aids except in the same office or business location of his or her sponsor and in the physical presence of the sponsor.
- f) A trainee shall complete the training only with the sponsor designated by the Committee and only during regular business hours.

#### **13:35-8.4 TRAINING PERMITS; ISSUANCE AND PRACTICE**

The Committee shall issue a training permit in accordance with N.J.S.A. 45:9A-16(b) and the provisions of this subchapter.

#### **13:35-8.5 TEMPORARY LICENSES; ISSUANCE**

- a) The Committee may issue a temporary license in accordance with N.J.S.A. 45:9-16(a) and the provisions of this subchapter to an applicant provided he or she has not previously held a training permit or has not previously taken the licensing examination described in N.J.S.A. 45:9A-10 and N.J.A.C. 13:35-8.17. A temporary license shall not be renewed when an applicant has failed the licensing examination, except on showing of good cause (such as illness or emergency precluding the taking of the examination).
- b) Persons from another jurisdiction who are not eligible for license by endorsement under N.J.S.A. 45:9A-13 who wish to sit for the licensing examination shall demonstrate a minimum of two years of full-time independent experience in dispensing, fitting and selling hearing aids as defined by N.J.S.A. 45:9A-2(d) and N.J.A.C. 13:35-8.8. The applicant must submit documentation and verification of said experience satisfactory to the Committee, or submit verification of current licensure to practice audiology in the State of New Jersey.

- c) Applicants may be interviewed by the Committee, at which time their education, training and experience will be examined. Where an applicant's documentation of education, training and experience appears unsatisfactory, the Committee may deny a temporary license, but may permit the applicant to sit for the next licensing examination.

### **13:35-8.6 TEMPORARY LICENSES; PRACTICE**

- a) A temporary licensee shall spend a minimum of 20 days in the office or business location of his or her sponsor within any 60-day period.
- b) A temporary licensee shall not maintain an independent office or a place of business for the purpose of dispensing hearing aids, but shall at all times operate in the sponsor's office in a manner consistent with the ability of his or her sponsor to provide responsible supervision.
- c) No temporary licensee shall complete a sale of hearing aids without the physical presence of his or her sponsor, and without obtaining the sponsor's signature on the purchase agreement.
- d) Every temporary licensee shall submit a daily written report of his or her activities to his or her sponsor which shall be retained as part of the permanent records.
- e) Upon submitting an application for a license, every temporary licensee shall submit an affidavit from his or her sponsor attesting to the supervision requirements of N.J.S.A. 45:9A-1 et seq. and this subchapter.
- f) Upon request, all records shall be made available to the Committee for its review and evaluation.

### **13:35-8.7 SPONSORS**

- a) Every trainee and temporary licensee shall be supervised and trained by a sponsor who has fulfilled the requirements of N.J.S.A. 45:9A-16 and the provisions of this subchapter.
- b) In addition, a sponsor shall:
  - 1) Supervise at any one time no more than a total of two persons who may be temporary licensees and/or permit holders;
  - 2) Be present in the same physical location for purposes of training and supervision;

- 3) Not pre-sign purchase agreements;
- 4) Maintain a daily log for each day of supervision and training as part of the permanent record;
- 5) Provide an affidavit attesting to the supervision requirements of N.J.S.A. 45:9A-1 et seq. and this subchapter; and
- 6) Notify the Committee within five days of any termination in the sponsorship arrangement, stating the reasons therefor.

### **13:35-8.8 SCOPE OF PRACTICE**

- a) The practice of fitting a hearing aid as defined by N.J.S.A. 45:9A-2(d) shall include:
  - 1) The evaluation or measurement of the power or range of human hearing utilizing customary and appropriate instrumentation available in the field;
  - 2) The making of an ear impression;
  - 3) Pursuant to N.J.A.C. 13:35-8.9, the fitting and dispensing of a deep ear canal hearing aid device that requires an impression taking technique involving instruments applied to the tympanic membrane;
  - 4) The cleaning, change of design or alteration of an earmold (including tubing);
  - 5) The change of frequency response of any instrument;
  - 6) The selection or adaptation of a hearing aid; and
  - 7) The interpretation and evaluation of hearing tests and the physical examination of a person's ear, where such interpretation, evaluation or examination is used in conjunction with the dispensing of a hearing aid.
- b) The practice of dispensing a hearing aid as defined by N.J.S.A. 45:9A-2(d) shall include the sale, rental or lease of hearing aids, the evaluation of the necessity for repair of a hearing aid, and the delivery after repair.

- c) The practice of fitting and dispensing a hearing aid shall include any activity which reasonably may be expected to result in the sale of a hearing aid, including but not limited to canvassing, counseling, soliciting and screening for potential hearing aid users.
- d) The terms of this subchapter are not to be construed to include activities of a licensed audiologist under N.J.S.A. 45:3B-21 et seq., unless he or she is also engaged in the dispensing of hearing aids.
- e) A license to fit and dispense hearing aids does not confer upon a licensee the right to hold oneself out to the public as an audiometrist, audiologist, otologist, otorhinolaryngologist or any such title which connotes medical or audiological competence.

### **13:35-8.9 FITTING AND DISPENSING OF DEEP EAR CANAL HEARING AID DEVICES**

- a) A licensee may fit and dispense a deep ear canal hearing aid device that requires an impression taking technique involving instruments applied against the tympanic membrane, provided that the licensee advises the Committee, on a form provided by the Committee, of the name and address of a Board-certified ENT physician licensed in this State who has agreed to be constantly accessible through electronic communications during the impression taking process and who is available to render immediate in-person assistance when required.
- b) The licensee shall not initiate the impression taking process unless the licensee has ensured that a physician is available as required by (a) above and that the consumer has, within seven days prior to the impression taking process, received a medical evaluation from an ENT physician licensed in the State. The physician's evaluation shall determine whether a deep ear canal hearing aid device may be safely and effectively worn by the consumer and shall be documented by written medical clearance, which the licensee shall place in the consumer's patient records.
- c) The licensee shall immediately refer any consumer who develops any complications during the impression taking or fitting process to the physician identified in (a) above or to a physician selected by the consumer.
- d) The licensee shall refer the consumer, following the impression taking process, to the physician who performed the pre-impression taking evaluation or to another plenary physician licensed in the State and shall secure a written evaluation regarding the placement of the deep ear canal hearing aid device and the consumer's continuing ability to safely and effectively wear the device.

- e) The licensee shall maintain documentation of the evaluations required pursuant to subsection (b) and (d) above consistent with the provisions of N.J.A.C. 13:35-6.5(b).

### **13:35-8.10 SUPERVISING LICENSEE**

- a) Every corporation, partnership, trust, association or unincorporated business entity operating for the purpose of fitting and dispensing hearing aids shall designate a duly licensed hearing aid dispenser to act as a supervising licensee.
- b) All such businesses shall file annually with the Committee the name and license number of the designated supervising licensee.
- c) The supervising licensee shall be responsible for assuring that all records are maintained in accordance with N.J.A.C. 13:35-8.16.

### **13:35-8.11 NOTIFICATION TO THE COMMITTEE; BIENNIAL LICENSE RENEWAL; LICENSE SUSPENSION; REINSTATEMENT OF SUSPENDED LICENSE; INACTIVE STATUS; RETURN FROM INACTIVE STATUS**

- a) Every licensee shall notify the Committee of any change of residence or place of practice within seven days following such change.
- b) Every licensee, temporary licensee or trainee whose license or permit has expired or has been terminated shall return the license or permit to the Committee office within five days of such invalidation.
- c) All licenses issued by the Committee shall be issued for a two-year biennial licensure period. A licensee who seeks renewal of the license shall submit a renewal application and the renewal fee set forth in N.J.A.C. 13:35-8.19 prior to the expiration date of the license.
- d) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- e) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set forth in N.J.A.C. 13:35-8.19. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.

- f) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice.
- g) A licensee whose license has been automatically suspended for five years or less for failure to renew pursuant to (f) above may be reinstated by the Committee upon completion of the following:
  - 1) Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:35-8.19;
  - 2) Completion of the continuing education units required for each biennial registration period for which the licensee was suspended; and
  - 3) Submission of an affidavit of employment listing each job held during the period of suspended license which includes the name, address, and telephone number of each employer.
- h) In addition to the fulfilling the requirements set forth in (g) above, a licensee whose license has been automatically suspended for more than five years who wishes to return to the dispensing of hearing aids shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Committee that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Committee prior to reinstatement of his or her license.
- i) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:35-8.19 and shall not engage in the dispensing of hearing aids.
- j) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Committee upon completion of the following:
  - 1) Payment of the reinstatement fee;
  - 2) The completion of the continuing education units required for each biennial registration period for which the licensee was on inactive status; and

- 3) Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status which includes the name, address, and telephone number of each employer.
  
- k) In addition to the fulfilling the requirements set forth in (j) above, a licensee who has been on inactive status for more than five years who wishes to return to the dispensing of hearing aids shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Committee that he or she has maintained proficiency while on inactive status may be subject to an examination or other requirements as determined by the Committee prior to reinstatement of his or her license.

### **13:35-8.12 EQUIPMENT**

- a) The equipment necessary to dispense hearing aids in accordance with N.J.S.A. 45:9A-1 et seq. and the provisions of this subchapter shall be available for use at all place(s) of practice.
  
- b) All electrical equipment used in testing hearing aids including the audiometer shall be inspected as often as necessary to assure accuracy and calibrated no less often than once a year. Audiometers shall be calibrated in accordance with the American National Standard Specifications for Audiometers (ANSI S3.6-1969) and the American National Standard for an Artificial Head Bone for the Calibration of Bone Vibrations (ANSI S3.13-1972). Complete records of calibration shall be maintained as part of the licensee's permanent records.

### **13:35-8.13 HEARING TESTING**

- a) No hearing aid shall be sold to a person who has not first been given a hearing examination, within the previous six months, utilizing appropriate established procedures and instrumentation for the measurement of the hearing and the fitting of hearing aids, unless the dispensing consists solely of making an exact make and model replacement or spare aid of an immediately preceding hearing aid fitted within the last 12 months.
  - 1) The appropriate hearing test which must precede any hearing aid fitting shall include at a minimum pure tone air conduction and bone conduction thresholds. In such cases, the testing shall be performed under conditions suitable to obtain valid and reliable thresholds.
  - 2) Where indicated, SRT, MCL, TD, speech discrimination and other tests which may be necessary shall be provided by using customary and appropriate instrumentation.

- b) A significant air bone gap as referred to in N.J.S.A. 45:9A-24(f) shall be a gap of 15 dB or more measured at 500 HZ, 1,000 HZ or 2,000 HZ. In the event that there is a gap at any of these frequencies, or higher, the individual shall be referred to a medical doctor. A written waiver of the individual's right to be examined by a medical doctor may be accepted.

### **13:35-8.14 ADVERTISING AND SOLICITATION**

- a) Any licensee who engages in the use of advertising, stationery, business cards or signs which contain any of the following shall be deemed to have committed professional misconduct in violation of N.J.S.A. 45:1-21:
  - 1) Any statement, claim or format which is false, fraudulent, misleading or deceptive;
  - 2) Any misrepresentation of material fact;
  - 3) Any omission or concealment of material fact, under circumstances where a licensee knows or should know that the omission is improper or is likely to hamper a customer from making a full and informed judgment on the basis of the information set forth;
  - 4) Any claim that the service performed or the materials used are superior to that which is ordinarily performed or used in the business unless such claim can be documented as truthful and not misleading;
  - 5) A technique or communication which appears to intimidate, exert undue pressure or undue influence on a customer;
  - 6) The use of terms such as "prescription made" and "certified hearing aid audiologist" or "audiologist," unless the person to whom reference made is a licensed audiologist as defined by N.J.S.A. 45:3B-2(a);
  - 7) The use of any term that connotes a medical competence that does not exist; or
  - 8) The use of the name of a temporary licensee or trainee in an advertisement, sign, stationery or business card.
- b) The name, license number and title designation ("Hearing Aid Dispenser") of the supervising licensee shall appear on every advertisement, stationery or business card. The name and title designation of the supervising licensee shall appear on every sign.

- c) The responsibility for the form and content of every advertisement, sign, stationery or business card shall be jointly and severally that of each licensee who is a principal, partner or officer of the firm or entity so identified as well as the supervising licensee whose name and license number is displayed therein.
- d) It shall be professional misconduct for a licensee to visit the home or office of a potential customer for the purpose of inducing a sale of a hearing aid without having obtained the express prior consent of such potential customer.

### **13:35-8.15 ABANDONMENT; EXCESSIVE FEES**

- a) It shall be professional misconduct for a licensee to unilaterally terminate without good cause as determined by the Committee, an agreement to deliver service(s) and/or equipment to a customer without first making arrangements for the orderly continuation of said services and/or equipment delivery.
- b) It shall be professional misconduct for any licensee to demand or accept excessive fees for service(s) or equipment rendered in connection with the sale or fitting of hearing aids. The excessiveness of such fee shall be determined by the Committee based on whether, after a review of the facts, a reasonable person would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching under the circumstances and as further described in N.J.A.C. 13:35-6.11(c).

### **13:35-8.16 ITEMIZATION OF SERVICES AND EQUIPMENT; RETENTION OF RECORDS**

- a) In addition to the written specified data and receipt requirements defined in N.J.S.A. 45:9A-23, a written itemization of the costs of all services and equipment shall be presented to a customer before dispensing a hearing aid. The itemization shall include all services and equipment including:
  - 1) Hearing test and examination of the ear;
  - 2) Fitting of an earmold;
  - 3) Dispensing services;
  - 4) Necessary cleaning, servicing and refitting for at least the first year following sale;
  - 5) The cost of the earmold; and
  - 6) The cost of the hearing aid.

- b) Every licensee shall prepare and retain a copy of all records including the itemization for a period of seven years following the sale.
- c) Every licensee shall obtain and maintain a medical waiver or medical clearance in accordance with applicable federal law.
- d) Every licensee shall designate his or her name or initials and license number and the date the service was rendered on all records maintained for the purpose of fitting or dispensing hearing aids.
- e) Every licensee shall make available upon the request of the Committee any and all records maintained for the purpose of fitting or dispensing hearing aids. Every customer or authorized representative of the customer shall be promptly given a copy of his or her own record as described in N.J.A.C. 13:35-6.5.

### **13:35-8.17 LICENSING EXAMINATION**

- a) The licensing examination shall consist of a written and practical examination in accordance with N.J.S.A. 45:9A-11.
- b) The written examination shall consist of two sections, one section relating to theory and knowledge about fitting and dispensing hearing aids and the other section testing knowledge relating to the laws and regulations governing the practice of fitting and dispensing hearing aids.
  - 1) In order to pass the licensing examination the candidate shall attain a passing score as determined by the examining agency on the written section of the examination relating to theory and knowledge about fitting and dispensing hearing aids and a score of 70 or greater on the written section of the examination relating to laws and regulations.
  - 2) Candidates who fail all or any section of the written examination shall be required to sit for the entire licensing examination during the next regularly scheduled examination with one exception: candidates failing only the law and regulation section may be admitted to a re-examination for this section only.
- c) In order to pass the practical examination, a candidate shall attain a passing grade on each part of the practical examination. A candidate shall be eligible to re-take the part(s) failed for one additional examination. No passing credit shall be carried over to a third examination and the candidate failing two exam sessions shall be required to take all sections of the examination.

- d) All examinations and re-examinations will be offered only during the regularly scheduled examination session except for the re-examination of the law and regulation section.

### **13:35-8.18 VIOLATION OF THE RULES**

- a) Failure to comply with any provision of N.J.S.A. 45:9A-1 et seq., or this subchapter shall be deemed a violation of the Hearing Aid Dispensers Act and may result in disciplinary action pursuant to N.J.S.A. 45:1-21 and 45:1-22.
- b) The notice of proposed suspension or revocation shall inform the licensed individual of the right to request a hearing. The hearing shall be pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

### **13:35-8.19 FEE SCHEDULE**

- a) The fee schedule for the Hearing Aid Dispensers Examining Committee of the State Board of Medical Examiners, in the Division of Consumer Affairs in the Department of Law and Public Safety, shall be as follows:

1) Application fee	\$50.00 (non-refundable)
2) Temporary licenses	\$50.00
3) Training permits	\$50.00
4) Examination	
i) Written	\$50.00
ii) Practical	\$25.00
5) Initial License Fee	
i) If paid during the first year of a biennial renewal period	\$180.00
ii) If paid during the second year of a biennial renewal period	\$90.00
6) Endorsement	
i) Review of credentials	\$30.00

- ii) Endorsement fee
    - (1) During the first year of a biennial renewal period \$110.00
    - (2) During the second year of a biennial renewal period \$55.00
  - 7) Biennial license renewal \$180.00
  - 8) Renewal or Extension of Temporary License and Training Permit \$20.00
  - 9) Late fee \$50.00
  - 10) Reinstatement, Biennial License \$100.00
  - 11) Inactive license fee (to be determined by the Director by regulation)
  - 12) Duplicate or replacement of biennial registration certificate \$25.00
  - 13) Preparation of certification papers for applicants to other states \$25.00
- b) The Committee will refund the examination fee only if the application is rejected by the Committee or withdrawn by the applicant within 14 days after the Committee's receipt of the application.
- c) An applicant who fails to sit for an examination for which payment has been submitted may, one time only, have the fee credited toward the next scheduled examination. If the applicant fails to sit for such next scheduled examination, the fee will be forfeited.

### **13:35-8.20 LICENSE RENEWAL; CONTINUING EDUCATION REQUIREMENT**

- a) No license renewal shall be issued by the Director unless the applicant confirms on his or her renewal application to the Hearing Aid Dispensers Examining Committee that during the two calendar years preceding application for renewal he or she participated in courses of continuing education of the type and number of credits specified in this section. Such continuing education is a mandatory requirement for license renewal. Licensees shall be solely responsible for obtaining and maintaining documentation on his or her completion of the required continuing education courses during the registration period. Such documentation shall be submitted to the Committee upon request, and will be surveyed on a random basis. The provisions of this subsection shall not apply to licensees renewing their licenses for the first time.

- b) Evidence of 20 documented course hours of continuing education shall be required of each applicant as a condition of biennial license renewal.
  - c) The number of creditable course hours and course contents must be accepted and approved by the National Institute for Hearing Instruments Studies (NIHIS), the educational arm of the International Hearing Society (IHS), and the Committee. A licensee who completes a three or more credit course in hearing aid dispensing at an accredited college or university shall upon the approval of the Committee receive credit for 10 continuing education course hours.
  - d) Acceptable continuing education courses shall be in any area which will update and refresh the clinical skills or knowledge of a hearing aid dispenser. Notwithstanding that the continuing education course meets the requirements, the Committee at its discretion may at any time examine and review any course claimed for credit. If, in the opinion of the Committee, such course does not clearly meet the requirements of this section, the course shall be disallowed for credit toward the required 20 continuing education credits.
  - e) In the event that a candidate for license renewal shall complete in two years a number of hours in excess of the number of hours required by this section, the documented hours in excess of those required shall not be credited toward license renewal for subsequent years.
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