

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency Board of Hearing Instrument Dealers
Rule No. 445-X-1-03
Rule Title: Licensing and Administration
_____ New XX Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NA

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? Yes

Committee: Health and Human Services
Analyst: Mary Lawrence

Sponsor: McClendon
Date: 02/04/2016

FISCAL NOTE

Senate Bill 18 as introduced removes the current fee amounts established by statute for licensees of the Alabama Board of Hearing Instrument Dealers and authorizes the Board to establish license and other fees by rule. The bill would also establish new application replacement license, license verification, returned check and special assessment fees. The current fee amounts range from \$25 to \$150; however, this bill would authorize the Board to establish fees ranging from \$25 to \$1,000. This bill would increase the receipts of the Board of Hearing Instrument Dealers Account by an amount dependent on the actual fees established by the Board. License fees generate an average of \$33,000 annually, based on data from 2010 through 2015.

Gerald O. Dial, Chairperson
Health and Human Services

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Marilyn Fletcher

Date 5/20/16

(DATE FILED)
(STAMP)

Alabama Board of Hearing Instrument Dealers

NOTICE OF INTENDED ACTION

AGENCY NAME: The Alabama Board of Hearing Instrument Dealers

RULE NO. & TITLE: 445-X-1-.02 Definitions
445-X-1-.03 Licensing and Administration
445-X-1-.04 Examination for Licensure
445-X-1-.05 Continuing Education
445-X-1-.06 Requirements for Businesses
445-X-1-.07 Prohibited Acts
445-X-1-.08 Investigations and Hearings

INTENDED ACTION: The Alabama Board of Hearing Instrument Dealers proposes to amend rule 445-X-1-.02 Definitions, 445-X-1-.03 Licensing and Administration, 445-X-1-.04 Examination for Licensure, 445-X-1-.05 Continuing Education, 445-X-1-.06 Requirements for Businesses, 445-X-1-.07 Prohibited Acts, and 445-X-1-.08 Investigations and Hearings

SUBSTANCE OF PROPOSED ACTION:

The proposed action of rule 445-X-1-.02 Definitions is to update the code to define the new definitions listed in Title 34-14, specifically defining an Apprentice, Direct Supervision, Indirect supervision and Hearing Aids which were either not defined earlier or required updating. This rule also changes all previous titles of dispensers, dealers and fitters to the current titles.

The proposed action of rule 445-X-1-.03 Licensing and Administration is to list all fees originally listed in Title 34, Chapter 14. The original law was written in 1975 and updated in 1991, 1994 and 2009. Fees charged to applicants for testing and annual licenses renewal were originally written into the legislation. Although initially adequate, the fees currently charged to the board to purchase standardized tests used for initial licensure and practical examinations exceed the amount we are allowed to charge individuals submitting applications for initial licensure or renewal. This rule establishes the rate for all fees allowed to be charged in Title 34-14. References were also made to a test that is no longer used. The Alabama Board originally wrote the licensure test for applicants. Neither a national or international standardized exam existed at that time. We, along with the majority of other states, have adopted and began using the International Studies for Hearing Instrument Science standardized test and practical for individuals submitting for initial licensure. Alabama adopted both for use in 2008. This change removes reference to the old test and correctly identifies the standards in the test currently used.

The proposed action of rule 445-X-1-.04 Examination for Licensure is to align the titles for Hearing Instrument Dealer, Dispenser and Fitter to the current title. Technical corrections and antiquated language used in the original code were updated.

The proposed action of rule 445-X-1-.05 Continuing Education is to align the titles for Hearing Instrument Dealer, Dispenser and Fitter to the current title. Technical corrections and antiquated language used in the original code were updated.

The proposed action of rule 445-X-1-.06 Requirements for Businesses is to align the titles for Hearing Instrument Dealer, Dispenser and Fitter to the current title. Technical corrections and antiquated language used in the original code were updated.

The proposed action of rule 445-X-1-.07 Prohibited Acts is to align the titles for Hearing Instrument Dealer, Dispenser and Fitter to the current title. Technical corrections and antiquated language used in the original code were updated.

The proposed action of rule 445-X-1-.08 Investigations and Hearings is to align the titles for Hearing Instrument Dealer, Dispenser and Fitter to the current title. Technical corrections and antiquated language used in the original code were updated.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

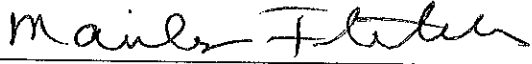
Comments may be submitted in writing or orally at Alabama Board of Hearing Instrument Dealers, 400 S. Union Street, Suite 235B, Montgomery, AL 36104, (334) 593-3777.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 6, 2016

CONTACT PERSON AT AGENCY:

Marilyn Fletcher
Executive Secretary
334-593-3777



Marilyn Fletcher
Executive Secretary

ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))

Control No. _____ Department or Agency Hearing Instrument Dealers Board

Rule No: 445-X-1-03

Rule Title: Licensing And Administration

_____ New Amend _____ Repeal _____ Adopt by Reference

_____ This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

The fees for licensure have not been changed since the Alabama Code Title 34-14 was written in 1975. Cost of administering the licensing the exams and license process has continued to increase. Without the increase in fees, the board would have become insolvent due to the cost of the tests purchased to administer the license exceeding the fees collected.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

The increase in license and testing fees is the only means the board has for collecting the necessary money to operate. Board members have not received any per-diem or travel fees for over 8 years in an effort to reduce expenses. The fees currently proposed are less than 50% of the 1975 fee if adjusted by the Consumer Price Index (CPI) from 1975 until 2016. The 1975 \$100 license fee for a Hearing Aid Specialist (fitter) would be \$444.72 using the CPI for 2016. The new fee established in this rule is \$200.

3. EFFECT OF THIS RULE ON COMPETITION:

This rule will have no effect on competition since all license holders will pay the same fee in state and Alabama's licensing fee remains consistently lower than most of our surrounding states. (Florida license renewal \$505, Georgia license renewal \$160, Mississippi license renewal \$200, Tennessee license renewal \$500.)

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

The cost will have NO impact ON the cost of living.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

The rule will not impact employment as the cost of licensure in Alabama remains below our surrounding states even after the rule is implemented.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

No additional revenue will be required to implement and enforce this rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The short-term benefit is that the Alabama Board of Hearing Instrument Dealers will not have to rely on the State for funds due to licensing fees not being sufficient to support the Boards activities. The long term impact is the that the Board will be equipped to monitor and enforce the rules governing the dispensing of hearing aids in Alabama without any additional revenue from any outside agency.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

None.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

This rule will have no environmental impact. The Board exists to ensure standards of care are maintained and individuals licensed to dispense hearing aids in Alabama meet minimum standards. It also provides a means for the public to seek relief from any unfair, unethical or illegal practice from any current license holder. This will remain possible with the implementation of this rule.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

None.

TRANSMITTAL SHEET FOR
BUSINESS ECONOMIC IMPACT STATEMENT
(Section 41-22-5.1)

Control No. _____ Department/Agency Hearing Instrument Dealers Board

Rule No. 445-X-1-.03

Rule Title: Licensing and Administration

 New X Amend Repeal Adopt by Reference

Attached is a Business Economic Impact Statement filed pursuant to
Section 41-22-5.1, Code of Alabama 1975.

Signature of Filing Officer Maile Fletcher

Date 5/20/16

(DATE FILED)
(STAMP)

445-X-1-.03 Licensing And Administration

(1) Qualifications for Licensure.

(a) In addition to meeting all other requirements of the licensure examination and of the rules, the applicant shall complete an application, on forms prescribed by the board, and shall meet the following requirements:

1. Be a minimum of 19 years of age.
2. Be of good moral character.
3. Have a minimum of a high school diploma or a GED.
4. Be free of any contagious or infectious disease.
5. Be a citizen or have status as a legal alien.

(2) Types of License.

(a) A hearing aid dispenser license shall be effective for a period beginning January 1, or from date of issue, and ending January 30 on the succeeding year.

(b) Apprentice Permit. Any individual meeting requirements specified in 445-X-1-.03 and has completed the International Institute for Hearing instrument Studies distance learning program may apply to the board for an apprentice permit.

1. An apprentice permit shall be effective for a period of one year from date of issue. An apprentice permit may be renewed for an additional year, provided that the permit holder has sat and failed the fitter's hearing aid specialist's examination during the first initial permit period. ~~The permit renewal fee is \$100.00.~~ An applicant may not be issued a second permit certificate within a five-year period following the expiration date of the initial permit.

2. Any individual applying for an apprentice permit shall provide proof of sponsorship by an active, licensed Alabama hearing ~~instrument-aid~~ dispenser with an established business address. Must also provide proof of initial 80 hours of training.

(i) The sponsor shall have been licensed for a minimum of one year.

(ii) A licensed hearing aid dispenser shall not sponsor more than 4 ~~apprentice~~ apprentice at any given time.

(iii) The sponsor shall provide guidance and supervision to adequately prepare an apprentice permitted individual to perform as a fully licensed ~~hearing instrument fitter and hearing aid dispenser~~ or designated hearing aid specialist. The sponsor shall provide direct supervision and immediate observation for a minimum of 80 hours prior to allowing the apprentice permeate to fit, select, dispense, or service a hearing instrument. After receiving the 80 hours of documented academic and practical instructions, the apprentice may perform the functions of a hearing ~~instrument fitter aid specialist~~, but only under the direct supervision and physical observation of a

licensed hearing aid dispenser, or hearing instrument fitter ~~aid specialist~~ when specifically designated by the hearing aid dispenser. The hearing aid dispenser or designated hearing aid specialist shall review and give final approval to work performed by the apprentice including all audiometric results. The hearing aid dispenser or designated hearing aid specialist must review and approve all ear impressions, and orders for hearing aids and earmolds before submission to the manufacturer. The hearing aid dispenser or designated hearing aid specialist ~~fitter~~ shall be physically present at the time the hearing aid(s) is delivered to the client.

(iv) The sponsor shall be responsible for all sales and service of the apprentice permeate.

(3) Withdrawal of Sponsorship.

(a) The sponsor may withdraw from the agreement upon providing a maximum of 10 days written notification to the apprentice and to the board. At that time the sponsor shall surrender the apprentice permit to the board.

(b) It shall be the apprentice permittee's responsibility to provide proof of sponsorship by another qualified licensee. The board shall forward the apprentice permit to the new sponsor. Failure to provide proof of sponsorship shall result in suspension of the apprentice permit.

(c) The apprentice permit holder may request transfer to another sponsor, upon written notification to the sponsor and to the board, and upon verification from the sponsor.

(4) All legal requirements which apply to licensees shall apply with equal force to apprentice permits and violation of any portion of these rules subjects apprentice permit holders to the same disciplinary action as licensees.

(5) Renewal of Licenses.

(a) The board shall renew an active license for each licensee who has completed the appropriate application and paid the licensure fee.

(b) After expiration of the 30 day grace period and ~~until December 30 of the same year~~, the board may renew licenses upon payment of a special reinstatement fee plus the regular renewal fee.

(c) A license may be renewed within two years of the expiration date upon payment of a special reinstatement fee plus the regular renewal fee. Within the two year renewal period, the person shall not be required to submit to any examination as a condition for renewal.

(d) Any active license which is not renewed by the end of the 30 day grace period shall become null and void, and the privilege of fitting and selling hearing instruments in Alabama becomes invalid.

(e) All licensees shall provide a current permanent business street address upon application for renewal. The address will be printed on the license. The license shall be valid only if the business street address is correct or the licensee has notified the board of any change of address within 15 days of such change.

(f) Application for renewal of a hearing aid dispenser or fitter's hearing aid specialist license or for an apprentice permit shall be denied so long as any suspension or revocation is imposed by the board, such suspension or revocation has been appealed to any court, and such suspension or revocation remains in litigation.

(6) Licensure Suspension.

(a) Any license may be suspended for violation of these rules or Alabama hearing instrument laws. A suspension of license will be contingent on proceeds in 445-X-1-.08 and with consideration of the following conditions:

1. When the board has reason to believe the operation of a hearing aid dispenser or fitter hearing aid specialist is in violation of the law or rules.

2. When the board has reason to believe the ~~dispenser, fitter,~~ hearing aid dispenser or fitter hearing aid specialist or apprentice is not making specific plans or efforts to comply with the law or these rules.

3. A license may be suspended for a period not to exceed one year at which time the license will be reinstated or revoked based on action of the board.

(7) Licensure Fees.

(a) All fees shall be made payable to the Board of Hearing Instrument Dealers. Licensure fees shall not be refunded.

1. Initial application fee of two hundred fifty dollars (\$250) is required to apply for a license with the Board.

2. Initial licensure or renewal fee is ~~\$100~~ two hundred dollars (\$200) for a hearing aid specialist ~~fitter~~ and ~~\$150~~ two hundred fifty dollars (\$250) for a hearing aid dispenser.

3. Examination fee is ~~\$125~~ two hundred dollars (\$200).

4. Late fee (during grace period) is ~~\$25~~ fifty dollars (\$50) in addition to the license fee.

5. Apprentice permit fee is one hundred ~~twenty-five~~ dollars (\$100.00125).

6. Apprentice permit renewal fee is one hundred ~~twenty-five~~ dollars (\$100.00125)

7. Duplicate license fee is twenty five (\$25.00) per additional license.

8. Replacement License Fee, if original is lost or the office moves within the calendar year is twenty five (\$25).

9. Verification Fee of twenty five (\$25) to verify certificates of any licensed individual.

10. Reinstatement fee of two hundred (\$200) is required for reinstatement of any license approved for reinstatement that is beyond the allowed grace period.

(8) Licensing.

(a) Issuance of License. The license shall be issued by the board. It shall set forth the name and business address of the dispenser, fitter, or apprentice.

1. A duplicate license shall be displayed at each business location when the licensee is operating from more than one business address.

2. Any change of address, place of business, or sponsor shall be submitted in writing to the board within 30 days after the change has occurred. Replacement certificates shall be issued by the board upon the payment of the appropriate fee.

(b) Basis for denial of license.

1. The board shall consider the following to be sufficient reason to deny a license to any person making application for or renewal of a hearing ~~instrument-dealer, aid dispenser, or fitter~~ hearing aid specialist license:

(i) Falsification of any information or record required in the application for license.

(ii) Change of personal name, corporate name, charter, entity or partnership name of composition to avoid the imposition of liens or court action.

(iii) Conviction of a felony in any state for physical, mental or financial abuse of consumers or the general public within the past five years.

(iv) Revocation of a hearing aid dispenser, dealer, or fitters's hearing aid specialist license within the last five years by administrative or court action in the state of Alabama.

(v) Conviction of fraud in any state or in any federal jurisdiction within the past five years.

(vi) Failure to comply with 445-X-1-.03(3).

2. The board reserves the right to make inquiries of any other person or agency to determine whether the above reasons for denial exist.

Author: Hearing Instrument Dealers Board

Statutory Authority: Code of Ala. 1975, §34-14-11(4).

History: New Rule: Filed November 17, 1994; effective December 22, 1994;

Amended: Filed October 11, 2001; effective November 15, 2001; Amended:
May 20, 2016