



WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Hearing Aid Dealers TITLE-SERIES: 8-01
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes
RULE NAME: 8-01 Rule Governing the West Virginia Board of Hearing Aid Dealers

PRIMARY CONTACT

NAME: Pamela Ann Coughlin
ADDRESS: 99 Edmiston Way
Buckhannon, WV 26201
EMAIL: wvbeslpa@wv.gov
PHONE NUMBER: 304-473-4289

CITE STATUTORY AUTHORITY: 30-26-3

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/29/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2026

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Email and Board Website

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Changing name from Hearing Aid Dealer to Hearing Aid Dispensers, §8-1-4 to change license renewal to biennially (even years), fee change to \$240, allowing Audiologist to supervise trainees, §8-1-5 added Reinstatement of Expired license, §8-1-6 took out first sentence, §8-1-7-4 took out trainee permit shall be forwarded to the Board by the supervisor and added Trainee will be notified by the Board of supervisor withdrawal once notified, Added §8-1-8-2, §8-1-10 Took term certified members, Added our address and website address and took

out Board of Hearing Aid dealers address, §8-1-13 took out 12.4, 12.5, 12.6, and 12.7, and made grammar changes.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Changing name from Hearing Aid Dealer to Hearing Aid Dispensers, §8-1-4 to change license renewal to biennially (even years), fee change to \$240, allowing Audiologist to supervise trainees, §8-1-5 added Reinstatement of Expired license, §8-1-6 took out first sentence, §8-1-7-4 took out trainee permit shall be forwarded to the Board by the supervisor and added Trainee will be notified by the Board of supervisor withdrawal once notified, Added §8-1-8-2, §8-1-10 Took term certified members, Added our address and website address and took out Board of Hearing Aid dealers address, §8-1-13 took out 12.4, 12.5, 12.6, and 12.7, and made grammar changes.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Pamela Coughlin -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 8
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF ~~HEARING AID DEALERS~~ EXAMINERS FOR SPEECH-
LANGUAGE PATHOLOGY AND AUDIOLOGY

SERIES 1
RULE GOVERNING THE WEST VIRGINIA ~~BOARD OF HEARING AID DEALERS~~
DISPENSERS

§8-1-1. General.

1.1. Scope. -- This legislative rule establishes general regulations governing the West Virginia Board of Hearing Aid ~~Dealers~~ Dispensers.

1.2. Authority -- W.Va. Code §§30-26-3, 30-26-14, 30-26-15.

1.3. Filing Date -- ~~April 22, 2021~~

1.4. Effective Date -- ~~April 22, 2021~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on ~~April 22, 2031~~ August 1, 2032.

§8-1-2. Definitions.

2.1. A “Permanent Office” is an office or place of business which is staffed, open and available to the public during normal business hours of the community which it serves. The closing of an office for a lunch period not to exceed one (1) hour or of an additional day on an extended holiday weekend will not be regarded as a violation of this rule, but the rental of desk space, the use of a post office box number as an address or the use of a telephone answering service does not qualify as a permanent office.

2.2. “Reasonable Distance” as used in W. Va. Code §30-26-5(1) means within twenty (20) statute miles by highway from the borders of the State of West Virginia. The Board may waive this requirement in a specific instance when, in the sole opinion of the Board, the welfare of the people of West Virginia would be better served by waiver.

2.3. The statement “The Making of Impressions for Ear Molds” means making molds of the ear to be used in conjunction with the manufacture and fitting of a hearing aid.

2.4. “Significant Air-Bone Gap” means a differential between air and bone readings of fifteen (15) or more decibels at five hundred (500), one thousand (1,000) and two thousand (2,000) Hertz, ANSI standard.

2.5. “Unreversed”, as that term refers to a criminal conviction, means that a conviction has not been set aside, vacated, pardoned, or expunged.

§8-1-3. Application For Licenses And Permits.

3.1. The Board shall furnish every person requesting an application for a license or trainee permit the necessary forms, a copy of the West Virginia law pertaining to the licensing of hearing aid ~~dealers~~

dispensers and fitters, a copy of any waiver forms prescribed by the Board and such other information or questionnaires as the Board considers necessary.

3.2. The Board shall design the application forms to provide the information necessary to satisfy itself that all requirements pertaining to the West Virginia law are being fulfilled.

3.3. All applications shall be signed by the applicant ~~and sworn by him or her before a notary public~~. In the case of a trainee permit, the supervisor's name, address, license number, and signature shall also appear on the application.

3.4. The application shall be accompanied by ~~a money order or certified check for the license or permit fee payment~~.

3.5. The Board may reject an incomplete application form and return it to the applicant for completion.

3.6. The Board shall deny any person knowingly furnishing false information in the application the right to the examination. If the applicant has already been licensed or received a permit before the falsification of the information has been made known to the Board, the license or permit is subject to suspension or revocation and the Board may forward all pertinent documents to the appropriate prosecuting attorney for possible prosecution for fraud and/or perjury.

§8-1-4. Issuance Of Licenses And Permits.

4.1. The Board shall issue to each applicant, within thirty (30) days of receipt of a properly completed application and payment of one hundred and twenty dollars (\$120.00) a hearing aid ~~dealer dispenser or fitter's~~ license if the applicant is an individual who:

4.1.1.a. Meets the standards set forth in W. Va. Code §§30-26-5(1)-(5); and

4.1.2.b. Has successfully taken and passed a qualifying examination as ~~specified~~ approved and ~~administered~~ by the Board.

4.2. If the applicant is a firm, partnership, trust, corporation, association or other like organization, the application, in addition to information required by the Board, shall be accompanied by an application for license for each person who engages in the ~~dealing dispensing in or fitting~~ of hearing aids. No licensed partnership, trust, association or corporation shall permit any unlicensed person to ~~sell or fit~~ dispense hearing aids.

4.3. ~~Each license expires on the first day of July each year. Each licensee engaged in the practice of dealing in or fitting hearing aids shall apply annually to the Board for renewal of the license. The Board shall issue to the applicant a renewal license. The renewal fee is one hundred and twenty dollars (\$120.00). A person who applies for renewal of a hearing aid dealer's or fitter's license which has expired is not required to take any examination as a condition for renewal. Provided, that application for renewal is made within two (2) years of the date the license expired. If application for renewal is made within thirty (30) days of expiration of a person's license, the Board may renew such license upon payment of the renewal fee of one hundred and twenty dollars (\$120.00) plus a penalty of one hundred and twenty dollars (\$120.00) for late filing. If application for renewal is made after expiration of such thirty (30) day period, the Board may renew such license upon payment of twice the renewal fee of one hundred and twenty dollars (\$120.00).~~

4.3. Each license expires biennially on the 31st day of December. Expiration of licenses is always on the even year, e.g., 2026, 2028, etc. The Board shall issue to the applicant a renewal license if all requirements for renewal are met. A licensee requesting renewal of a license shall:

4.3.1. Pay to the Board a license renewal fee of two hundred and forty dollars (\$240)

4.3.2. Submit an application for renewal on the license renewal form prescribed by the Board.

4.4. The Board shall notify all licensees of the renewal procedures during the fourth quarter of the year the license expires. The Board will send notifications via email to the last email address provided by the licensee. If an email address is not available, the notification will be sent via US Mail to the last mailing address provided by the licensee. It is the responsibility of the licensee to notify the Board of any change in contact information.

4.5. A license that expires may be renewed within one (1) year of the expiration date, as long as:

4.5.1. The licensee is entitled to and has met all requirements for license renewal.

4.5.2. The licensee pays the renewal fee of two hundred and forty dollars (\$240) and the late fee of seventy-five dollars (\$75) if filed within 1 year of expiration.

4.6. A license renewed after expiration is valid only when the applicant meets all renewal requirements. Prior to the renewal of an expired license, the license is considered inactive. Anyone providing services with an expired or inactive license may face disciplinary actions for unlicensed practice.

4.7. The board may reinstate a license expired for more than one (1) year but fewer than five (5) years if the licensee:

4.7.1. Pays to the Board a reinstatement fee equal to the renewal fee in effect on the last regular renewal date immediately preceding the date of reinstatement, and a license reinstatement fee of one-hundred dollars (\$100).

4.7.2. Meets all other requirements for licensure renewal

4.8. Prorated fees:

4.8.1. License Hearing Aid Dispenser Individual and Company License Fees: January-June/First Year of the Licensing Period (odd year)

4.8.1.a. License fee for Hearing Aid Dispenser Individual - \$240

4.8.1.b. License fee for Hearing Aid Dispenser Company - \$240

4.8.1.c. Pro-Rated License Fees: July – December/First Year of Licensing Period (odd year)

4.8.1.d. License fee for Hearing Aid Dispenser Individual - \$180

4.8.1.e. License fee for Hearing Aid Dispenser Company - \$180

4.8.2. Pro-Rated License Fees: January-June/Second year of Licensing Period (even year)

4.8.2.a. License fee for Hearing Aid Dispenser Individual - \$120

4.8.2.b. License fee for Hearing Aid Dispenser Company - \$120

~~4.4. The licensee or permittee trainee is responsible for filing and paying fees for renewals. If reminders of the renewals are sent by the secretary it is a courtesy only and shall not be considered a responsibility by the Board.~~

~~4.9.5.~~ Each licensee shall display his or her license in a conspicuous place in his or her office or place of business at all times. The Board shall issue duplicate copies of a license upon receipt of a properly completed application and payment of ten dollars (\$10.00) for each copy requested.

~~4.10.6.~~ Each person engaged in training to become a licensed hearing aid ~~dealer or fitter~~ dispenser shall apply to the Board of Examiners for Speech-Language Pathology and Audiology for a hearing aid ~~dealer's or fitter's~~ dispenser trainee permit. The Board shall issue to each applicant, within thirty (30) days of receipt of a properly executed application and payment one hundred and twenty dollars (\$120.00), a trainee permit if the applicant is:

~~4.10.1.6.a. A person of good moral character and h~~ Has never been convicted nor is presently under indictment for a crime involving moral turpitude;

~~4.10.2.6.b.~~ Is eighteen (18) years of age or older;

~~4.10.3.6.c. Has an education equivalent to a four (4) year course in an accredited~~ Has a high school diploma; or equivalent.

~~4.6.d. Is free of any chronic infectious or contagious disease; and~~

~~4.6.e. Will engage in training to become a hearing aid dealer or fitter on a full-time basis.~~

~~4.11.7.~~ Each trainee permit issued by the Board expires one (1) year from the date it was first issued, and may be renewed once if the trainee has not successfully completed ~~the a~~ a qualifying examination approved by the Board for licensing as a hearing aid ~~dealer or fitter~~ dispenser before the expiration date of the permit. The Board shall issue a renewal permit to each applicant upon the receipt of a properly completed application and the payment of one hundred and twenty dollars (\$120.00); Provided, That the trainee applying for the renewal permit has taken the qualifying examination at least once during the first year. ~~the permit was issued and attained a grade of at least fifty percent (50%) in the written portion of the examination and at least seventy percent (70%) in the performance test.~~ If application for renewal is made after expiration of a person's trainee permit, the Board may renew such trainee permit upon payment of one hundred twenty dollars (\$120) plus seventy-five (\$75) for late filing fee. twice the renewal fee of one hundred and twenty dollars (\$120.00).

4.12. Each trainee must pass a written examination approved by the Board to take the practical examination.

~~4.13.8.~~ A person holding a trainee permit shall not engage in the practice of ~~dealing in or fitting~~ dispensing of hearing aids except while under the direct supervision of a specified licensed hearing aid ~~dealer or fitter~~ dispenser or audiologist. The supervisor and the holder of the temporary trainee permit shall work in the same office for the duration of the temporary trainee permit. A licensed hearing aid ~~dealer or fitter~~ dispenser or audiologist may not supervise more than one (1) trainee at a time. The supervisor may be held responsible to the Board for any violations of the law regulating hearing aid ~~dealers and fitters~~ dispensers, or the rules of the Board.

~~4.14.9.~~ Each trainee permit is valid only for the trainee in whose name it is issued and for his or her specific supervisor unless otherwise approved by the Board.

~~4.15.10.~~ A trainee shall present himself or herself for written examination within twelve (12) months from the date of the issuance of his or her trainee permit.

~~4.11. The Board shall require any applicant for license or a trainee's permit to appear before it in person for further examination before the issuance of the license or trainee permit, unless the Board waives the personal appearance.~~

4.16. Following completion of the written examination, a trainee shall present himself or herself for the practical examination within twelve (12) months the date of passing the written examination.

§8-1-5. Reinstatement of Expired Licenses.

5.1. The Board may reinstate a license expired for more than one year but fewer than five years if the licensee:

5.1.1. Pays to the Board a reinstatement fee of one hundred dollars (\$100) equal to the renewal fee in effect on the last regular renewal date immediately preceding the date of reinstatement, and the license reinstatement fee.

5.1.2. Completes 10 clock hours of approved continuing education per year that the license was expired up to a maximum of 25 hours. The applicant shall submit verification of the required continuing education as part of the license reinstatement process..

5.2. A person who applies for renewal of hearing aid dealer dispensing license which has expired more than two (2) years will be required to take the written exam, practical exam and Jurisprudence exam. Along with the renewal fee and late fee stated in the subsection 4 of this rule.

§8-1-6.5. Reciprocity.

~~6.1.5.1. The Board shall promote reciprocity agreements with those states adjoining the State of West Virginia if those states who provide reciprocity with West Virginia. The Board shall consider reciprocity with other states on an individual basis.~~

6.2.5.2. The Board will not honor a license issued to an individual, partnership, trust, association or other like organization by another state in lieu of a license issued by the State of West Virginia. However, if an individual applicant has completed an examination equal or superior to the West Virginia examination, the Board may waive or partially waive the examination requirements for licensure in the State of West Virginia.

§8-1-7.6. Responsibilities Of The Licensee.

~~7.1.6.1.~~ Each licensee engaged in ~~dealing or fitting~~ dispensing of hearing aids shall be familiar with the requirements of the law regulating those activities in West Virginia and with the rules of the Board.

~~7.2.6.2.~~ Each licensee engaged in ~~dealing in or fitting~~ dispensing of hearing aids shall ~~make timely fill out~~ application for a license or renewal of a license according to section 4, to complete the forms properly and pay the fees required, and to hold himself or herself available for examination at the times and places designated by the Board.

~~7.3.6.3.~~ The licensed ~~dealer or fitter~~ dispenser shall use the results of appropriate test procedures on every individual to whom he or she sells or fits a hearing aid, and have them on file for a period of seven (7) years. The minimum acceptable test records are:

~~7.3.1.6.3.a.~~ Pure tone tests, including air and bone conduction with masking where appropriate;

~~7.3.2.6.3.b.~~ Speech reception threshold expressed in decibels;

~~7.3.3.6.3.c.~~ Most comfortable level expressed in decibels;

~~7.3.4.6.3.d.~~ Discrimination scores expressed in percentage with indication of the test word used.

~~7.4.6.4.~~ Full responsibility for the compliance of a hearing aid dispenser trainee permit holder rests with the licensed supervisor who is registered as the trainee's supervisor at the time any noncompliance may occur. The supervisor may relieve himself or herself of the responsibility of a trainee by advising the Board by certified mail and explaining fully the circumstances under which he or she is withdrawing supervisory responsibility of the trainee. The trainee permit shall be forwarded to the Board by the supervisor. Trainee will be notified by the Board of supervisor withdrawal once notification is received and reviewed by the Board.

7.5. Following supervisor withdrawal, it is the trainee's responsibility to obtain a new supervisor for completion of training. Trainee is responsible for notifying the Board of new supervisor. Prior to appointment of new supervisor, the trainee permit is considered inactive. Anyone providing services with an inactive permit may face disciplinary actions from the Board for unsupervised practice.

§8-1-8.7. Matters To Be Ascertained By Licensee Prior To The Sale Or Fitting Of Hearing Aids.

~~8.1.7.1.~~ Every licensee engaged in the practice of ~~dealing in or fitting~~ dispensing of hearing aids shall, prior to the sale or fitting of a hearing aid to a prospective customer, make the following disclosure, in writing, to the prospective customer: "The purchaser has been advised at the outset of his relationship with the hearing aid ~~dealer~~ dispenser that any examination or representation made by a licensed hearing aid ~~dealer~~ dispenser in connection with the practice of fitting this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinion.

~~7.2. Every licensee engaged in the practice of dealing in or fitting of hearing aids shall, prior to the sale or the fitting of a hearing aid intended to be worn or used by any person under eighteen (18) years of age, first ascertain whether such person has within the next preceding six months been examined for the defective or impaired hearing condition sought to be relieved by an otolaryngologist or other duly licensed physician.~~

8.2. Every licensee engaged in the practice of dispensing of hearing aids shall, prior to the sale or fitting of a hearing aid intended to be worn or used by any persons under eighteen (18) years of age, first ascertain whether such person has been examined by an otolaryngologist, or other duly licensed physician, for the impaired hearing or disorder sought to be relieved with a hearing aid within the six (6) months prior to the date of fitting or dispensing of a hearing aid.

~~8.3.7.3.~~ If such person under the age of eighteen (18) years has been so examined, the licensee shall, prior to the sale or fitting of such hearing aid, obtain from such otolaryngologist or physician written authority medical clearance to fit a hearing aid.

~~8.4.7.4. If such person under the age of eighteen (18) years has not been examined by an otolaryngologist or physician, and/or written medical clearance has not been granted and documents, the licensee shall not proceed with the sale or fitting of a hearing aid until after such person has been so examined. until the requirements have been met.~~

~~7.5. If the prospective user of a hearing aid is eighteen years of age or older, prior to the sale or fitting of a hearing aid to the prospective customer, the hearing aid dispenser may afford the prospective user an opportunity to waive the medical evaluation requirement provided that the hearing aid dispenser:~~

~~7.5.a. Informs the prospective user that the exercise of the waiver is not in the user's best health interests;~~

~~7.5.b. Does not in any way actively encourage the prospective user to waive such a medical evaluation;~~

~~7.5.c. Affords the prospective user the opportunity to sign the following statement, prior to the sale or fitting of a hearing aid: "I have been advised by (hearing aid dispenser's name) that the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation by a licensed physician, preferably one who specializes in diseases of the ear, before purchasing a hearing aid. I do not wish a medical evaluation before purchasing a hearing aid."~~

~~8.5.7.5.d. Prior to the sale of a hearing aid, every licensee shall determine that the prospective purchaser's best interest would be served by consulting an otolaryngologist or other physician specializing in disease of the ear, or any other physician duly licensed to practice medicine in this state, if any of the following conditions are found upon examination of such person:~~

~~8.5.1.7.5.d.1. Visible congenital or traumatic deformity of the ear;~~

~~8.5.2.7.5.d.2. History of active ear discharge within the previous ninety (90) days;~~

~~8.5.3.7.5.d.3. History of sudden or rapidly progressive hearing loss within the previous ninety days;~~

~~8.5.4.7.5.d.4. Acute or chronic dizziness;~~

~~8.5.5.7.5.d.5. Unilateral hearing loss of sudden or recent onset within the previous ninety days; or~~

~~8.5.6.7.5.d.6. Significant air-bone gap, as defined in section 2.4~~

~~8.5.7. Cerumen blockage~~

~~8.5.8. Pain or discomfort in the ear~~

~~8.6.7.6. A copy of any writing or form written document required to be given to a prospective purchaser or other person by the terms of this section shall be retained in the records of the licensee for a period of at least seven (7) years following the issuance of each writing.~~

§8-1-9.8. Sales Receipt.

9.1.8.1. The licensed ~~individual~~ hearing aid dispenser or ~~permit~~ trainee holder making the sale shall sign a customer's receipt and the name shall be the same name under which the licensee or permit holder is registered with the Board.

9.2.8.2. The receipt shall bear the following information:

9.2.1.8.2.a. The name, address and date of birth of the recipient of the hearing aid;

9.2.2.8.2.b. The date of sale;

9.2.3.8.2.c. The name of the manufacturer, the model number and serial number of ~~the~~ each hearing aid sold; accessory, or other associated items sold;

9.2.4.8.2.d. The name, address, and telephone number of the licensee's office;

8.2.e. ~~The signature of the licensee or permit holder making the fitting;~~

9.2.5.8.2.f. The terms of the guarantee or warranty under which the hearing aid is sold. To satisfy this requirement, the receipt ~~may~~ shall bear the notation "One Year Warranty" or similar expression; include the term of the warranty; ~~Provided, that the full terms of the warranty by the manufacturer or seller are available for inspection;~~

9.2.6.8.2.g. If the hearing aid has previously been sold at retail, the term "Used" or "Reconditioned", whichever is applicable, with the terms of the guarantee or warranty; and

9.2.7.8.2.h. The retail price of the hearing aid, any discount or trade-in allowance, the net price of the aid, and the terms of the ~~installment or time~~ purchase agreement if where applicable. ~~If more convenient, the terms of the installment or time payment contract may be executed on a separate document and attached to the receipt.~~

9.2.8.8.2.i. Information about the right to rescind the purchase agreement as required by §§8-1-12.2 and 8-1-12.4 of this Title.

9.3.8.3. For the purpose of interpreting this rule, the term "New" means a hearing aid which has not been previously sold at retail or used as a demonstrator.

9.4.8.4. If all the requirements of this Section are contained and/or met in a sales agreement, sales contract or purchase order, the agreement, contract or order shall be considered as a receipt for the purposes of this section.

§8-1-10.9. Advertising.

10.1.9.1. All advertisements to the general public offering replicas, descriptive literature on wearable hearing aids, hearing loss, etc., placed by an individual or organization whose business includes the merchandising of hearing aids shall be considered as advertising hearing aids for sale.

10.2.9.2. The licensee shall not advertise 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, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type.

~~10.3.9.3.~~ The licensee shall not advertise that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, nor shall the advertising use the words, “Doctor”, “Clinic”, or similar words, abbreviations or symbols which tend to connote the medical profession when the use is not accurate.

~~10.4.9.4.~~ The licensee shall not advertise using the words “Audiologist”, “State Licensed Certified”, “State Registered”, “State Certified”, “State Approved”, or any other term, abbreviation, or symbol when it would falsely give the impression that service is being provided by persons holding a degree in audiology, or trained in clinical audiology, or that the licensee’s service has been recommended by the state when that is not the case. ~~The term “Certified Member” may be used when the certification has been granted by the National Hearing Aid Society. Provided, that it is made clear that the certification is granted by the National Hearing Aid Society and not by any college, university, or agency of this state.~~

~~10.5.9.5.~~ The licensee shall not advertise using a manufacturer’s name or trademark which would imply that a relationship exists with that manufacturer when in fact it does not.

~~10.6.9.6.~~ In evaluating advertising, the Board may use all the available criteria (such as the regulations of the Federal Trade Commission, the code of ethics of the National Hearing Aid Society, ~~the Hearing Aid Industry Conference~~, and the West Virginia Hearing Aid Society) and may regard a violation of any of these criteria as unethical conduct.

~~10.7.9.7.~~ The hearing aid ~~dealer~~ dispenser must prominently display the following advisement: “Consumers may contact the West Virginia Board of ~~Hearing Aid Dealers 179 Summers St Suite 715, Charleston, WV 25301~~ Examiners for Speech-Language Pathology and Audiology 99 Edmiston Way, Suite 214, Box 11, Buckhannon, WV 26201, or by email at wvbeslpa@wv.gov if the consumer believes that the hearing aid ~~dealer~~ dispensers has not satisfied the terms of the contract.

~~§8-1-11.10.~~ Complaint Procedures.

~~11.1.10.1.~~ A licensee or ~~permittee~~ trainee whose license has been revoked or suspended by the Board, or to whom the Board has refused to issue a license or permit, may appeal the Board’s decision under the Board’s Rule “CONTESTED CASE HEARING PROCEDURE” 8CSR2.

~~11.2.10.2.~~ The Board shall investigate complaints and discipline licensees and permittees under the Board’s Rule “DISCIPLINARY AND COMPLAINT PROCEDURES FOR HEARING AID ~~DEALERS~~ DISPENSERS” 8CSR3.

~~§8-1-12.11.~~ Causes For The Suspension Or Revocation Of Licenses Or Permits.

~~12.1.11.1.~~ The Board may suspend or revoke the license or permit if the person holding the license or permit:

~~12.1.1.11.1.a.~~ Violates any provision of the law regulating the licensure of hearing aid ~~dealers~~ dispensers and fitters or any ~~violations of the rules governed by of the Board of~~ Examiners for Speech Language Pathology and Audiology ~~Hearing Aid Dealers~~ Dispenser;

~~12.1.2.11.1.b.~~ Procured a license by fraud or deceit practiced upon the Board;

~~12.1.3.11.1.e.~~ Obtained any fee or made any sale of a hearing aid by fraud or misrepresentation;

~~12.1.4.11.1.d.~~ Employed any person who has engaged in the fitting, dispensing, or sale of hearing aids without a license or trainee permit or an individual whose license ~~was suspended or revoked to engage in the fitting or sale of hearing aids;~~ is inactive, suspended, or revoked.

~~12.1.5.11.1.e.~~ Used, caused or promoted the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, grand, insignia, or other representation however disseminated or published which is misleading, deceptive, or untruthful;

~~11.1.f. If he or she is found by the Board to be a person of habitual intemperance or gross immorality;~~

~~12.1.6.11.1.g.~~ Fitted, sold, or attempted to fit or sell, a hearing aid to a person without first utilizing the appropriate procedures and instruments required for the proper fitting of hearing aids;

~~12.1.7.11.1.h.~~ Engaged in the fitting or sale of hearing aids under a false name or alias;

~~11.1.i. Engaged in the practice of fitting hearing aids while suffering from a contagious or infectious disease;~~

~~12.1.8.11.1.j.~~ Permitted another person to use his or her license; or

~~12.1.9.11.1.k.~~ Is found by the Board to be guilty of gross incompetence or negligence in the fitting and sale of hearing aids.

§8-1-~~13.12.~~ Right to Rescind Purchase Agreement.

~~13.1.12.1.~~ Each person supplied with a hearing aid by a licensed hearing aid ~~dealer~~ dispenser shall have the right to return the hearing aid to the ~~dealer~~ dispenser within thirty (30) calendar days of receipt and rescind the purchase agreement if the hearing aid does not function properly, cannot be adjusted to satisfactorily compensate for the deficiency in the person's hearing, or the person is otherwise dissatisfied with the hearing aid.

~~13.2.12.2.~~ The sales receipt shall contain the following wording in type not smaller than that used in the body of the purchase agreement: " You have the right to return the hearing aid to the ~~dealer~~ dispenser from whom it was purchased at any time within thirty (30) days after receipt of the aid and rescind the purchase agreement except for reasonable fitting and examination charges (\$125.00 maximum fitting charge per hearing aid), if the aid does not function properly or cannot be adjusted to correct the deficiency in your hearing or is otherwise unsatisfactory. The hearing aid(s) and all accompanying accessories ~~so~~ returned must be without damage.

~~13.3.12.3. In the event~~ If that the prospective purchaser of a hearing aid exercises his or her right to rescind the purchase agreement, the fee to be charged for the cancellation shall not exceed one hundred twenty-five dollars (\$125.00) per hearing aid provided. This fee shall include all services performed by the ~~dealer~~ dispenser and all materials used in the fitting including the fee for the examination, fitting, training, use of the hearing aid (s), the cost of the ear molds(s) if required, and any batteries provided.

~~12.4. Hearing aid dealers are required to provide at least one thirty (30) calendar day extension of the right to rescind the purchase agreement so long as the consumer alerts the hearing aid dealer of the hearing aids deficiencies within the first thirty (30) days of purchase and the hearing aid dealer makes an adjustment or advises the consumer to continue using the aid.~~

~~12.5. For purposes of computing the thirty (30) calendar day extension to rescind the purchase agreement, the last visit or communication the customer made to the hearing aid dealers dispenser within~~

~~the original thirty (30) day right to rescind period shall constitute the first day of the thirty (30) day extension.~~

~~12.6. Unless the purchase agreement provides otherwise, further adjustments or advertisements to continue wearing the hearing aid made within the thirty (30) day extension period will not constitute a new beginning of another thirty(30) day extension period for the consumer to rescind the purchase agreement.~~

~~12.7. The hearing aid dealer or fitter may elect to meet the return privilege by renting or leasing the aid to the prospective customer. If the dealer so elects, the rental or leasing agreement shall have a fee not to exceed one hundred twenty five dollars (\$125.00) per hearing aid and the agreement shall specify that the prospective buyer may rescind the rental or lease agreement at any time by returning the hearing aid in good condition and that he or she shall incur no further costs by returning the hearing aid.~~

§8-1-~~14,13~~. Practicum Examination Fees For Licensure.

~~14.1.13.1.~~ Each applicant for licensure shall submit payment of one hundred fifty dollars (\$150.00) for the Practicum examination. The fee to retest for the Practicum exam shall be seventy _ five dollars (\$75.00). Each applicant shall also submit payment of fifty dollars (\$50.00) for the West Virginia jurisprudence examination. The fee to retest for the West Virginia jurisprudence examination shall be fifty dollars (\$50.00).