

N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



Obsolete
8/14/74

State of West Virginia
DEPARTMENT OF HEALTH
CHARLESTON 5

October 22, 1973

The Honorable Edgar F. Heiskell, III
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Sir:

Enclosed are two copies of "Regulations governing the West Virginia Board of Hearing Aid Dealers", designated Chapter 16-1, Series X of the West Virginia Administrative Regulations.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by the West Virginia Board of Hearing Aid Dealers October 18, 1973.

Very truly yours,

N. H. Dyer, M.D., M.P.H.
State Director of Health

NHD:jd

Enclosure

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 10-22-73

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
State Department of Health

Chapter 16-1
Series X
(1973)

Subject: Regulations governing the West Virginia Board of Hearing Aid
Dealers

Section 1. General

- 1.01. Scope.--These regulations establish general rules governing the West Virginia Board of Hearing Aid Dealers.
- 1.02. Authority.--These regulations are issued under authority of the West Virginia Code, Chapter 16, Article 24.
- 1.03. Effective Date.--These regulations are promulgated on October 18, 1973, and become effective November 22, 1973.
- 1.04. Filing Date.--These regulations were filed in the Office of the Secretary of State on October 22, 1973.
- 1.05. Certification.--These regulations are certified authentic by the Secretary of State.

Section 2. Duties and Powers of the Board

- 2.01. The duties and powers of the Board are defined in Article 24 of Chapter 16 of the Code of West Virginia and are hereby made a part of these regulations.

2.02. It shall be the duty of this Board to carry out the provisions of this Article to the best of its ability.

2.03. Meetings of the Board

- (a) The Board shall hold at least one annual meeting during May of each year at the place and time designated by the Chairman for the purpose of electing a Chairman and Vice-Chairman. New officers shall take office on July 1 of that year.
- (b) Meetings of the Board may be called by the Chairman at any reasonable time. The Chairman shall call a meeting at any time upon the request of three or more of the Board members.
- (c) Each Board member shall be notified by mail of the time and place of any meeting at least two weeks prior to the date on which the meeting will be held. Notification of special or emergency meetings may be by the most expedient means. An agenda setting forth the subjects and areas to be discussed will normally be sent to each member prior to the meeting date. The West Virginia Department of Health shall be duly notified of all meetings of the Board.

- (d) Robert's Rules of Order will be used as the guide to business proceedings.
 - (e) All meetings shall be open to the public unless otherwise designated by the Board.
- 2.04. All forms, revisions to license and/or trainee permit format and other printed material necessary for the administration of this licensing agency shall be approved by the Board.
- 2.05. No Board member shall act officially for the Board or convey the impression to others that he is acting officially for the Board without prior authorization from the Board.
- 2.06. Public notice of the intention of the Board of Hearing Aid Dealers to consider adopting, amending, or rescinding a regulation which the Board of Hearing Aid Dealers is authorized by law to adopt, amend, rescind, or which it may hereafter be authorized by law to do so, shall be published at least once, in the English language, at least thirty days prior to the date set for a public hearing to consider adopting, amending or rescinding said regulation in one newspaper of general circulation in five major geographical areas of the State. Said public notice shall consist of a synopsis or a general statement of the subject matter of the proposed regulation to be adopted, amended, or

rescinded by the Board of Hearing Aid Dealers, and the date, time, and place of hearing on said proposed action.

2.07. The Secretary of the Board shall file a copy of said proposed regulation with the Secretary of State and shall cause public notice to be given the hearing on said regulation.

2.08. The Board may give additional notice of such public hearing as it deems necessary. However, the giving of such additional notice is not mandatory and the failure to give such additional notice shall not in any way invalidate any action which may be taken by the Board.

Section 3. Duties of the Chairman

3.01. He shall designate the time and place of meetings on his own authority or at the direction of a majority of the Board members.

3.02. He shall preside at all meetings, or in case of his inability to attend any meeting, the Vice-Chairman shall preside. In the event the Vice-Chairman is not available, the Board members present shall designate a Chairman to serve for that meeting.

3.03. He will exercise general supervision of the affairs of the Board and shall have the usual powers of such office and any other powers and duties as the Board may direct.

- 3.04.. He shall sign all licenses, permits, and duplicates issued by the Board.
- 3.05.. He shall sign the official minutes of the proceedings of the Board which shall remain on permanent file.

Section 4. Duties of the Vice-Chairman

- 4.01.. He shall assist the Chairman in carrying out his duties when requested.
- 4.02.. He shall preside over meetings in the absence of the Chairman.
- 4.03.. He shall act in behalf of the Chairman in cases of extended incapacitation or long absence of the Chairman.

Section 5. Duties of the Secretary

- 5.01.. He shall keep the minutes of the proceedings at Board meetings and the records of the Board.
- 5.02.. He shall have custody of all fees received by the Board and shall be responsible for the transfer of such funds to the State Treasurer.
- 5.03.. He shall receive, accept responsibility for, issue (with Board approval) and account to the Auditor of the State for all licenses, trainee permits, and duplicates of certificates handled by the Board.

- 5.04. He shall be responsible, with the approval of the Board, for the preparation and submission of the annual budget of the Board.
- 5.05. He shall be responsible for the overall administration of the Board's office and shall render administrative services to Board members and report these activities to the Board.

Section 6. Application for Licenses and Permits

- 6.01. Every person requesting an application for a license or trainee permit shall be furnished the necessary forms, a copy of the West Virginia law pertaining to the licensing of hearing aid dealers and fitters, a copy of any waiver forms prescribed by the Board, and such other information or questionnaires as the Board may deem desirable.
- 6.02. The application forms shall be designed to provide the information necessary to satisfy itself that all requirements pertaining to the West Virginia law are being fulfilled.
- 6.03. All applications shall be signed by the applicant and sworn by him before a Notary Public. In the case of a trainee permit, the supervisor's name, address, license number and signature shall appear.

renewal of such license. The Board shall issue to such applicant, on payment of forty dollars on or before the first day of August, forty-five dollars after August first but before August thirty-first, or fifty dollars thereafter, a renewed license. No person who applies for renewal of a hearing aid dealer's or fitter's license which has expired shall be required to take any examination as a condition for renewal provided application for renewal is made within two years of the date such license was suspended.

7.11. Responsibility for filing and paying fees for renewals shall rest with the licensee or permit holder, and if reminders of such renewals are sent by the Secretary it shall be as a courtesy only and shall not be considered a responsibility of the Board.

7.12. Each person who holds a hearing aid dealer's or fitter's license shall display such license in a conspicuous place in his 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 one dollar for each copy requested.

Section 8. Reciprocity

8.01. The Board shall promote reciprocity agreements with those states adjoining the State of West Virginia whose existing legislation permits. Reciprocity will be considered with other states on an

individual basis.

8.02. A license issued to an individual, partnership, trust, association or other like organization by another state will not be honored 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.

8.03. Violation of laws regulating the fitting and dispensing of hearing aids in any state by an individual, partnership, trust, association or other like organization licensed by this Board, while he is visiting or residing in such other state, shall be considered as unethical conduct by this Board.

Section 9. Responsibilities of the Licensee

9.01. It shall be the responsibility of each person engaged in dealing in or fitting of hearing aids to be familiar with the requirements of the law regulating such activities in West Virginia and with the regulations of this Board.

9.02. It shall be the responsibility of each person engaged in dealing in or fitting of hearing aids to make timely application for licensure or renewal of license, to complete such forms properly and pay the

of the aid; and the terms of the installment or time purchase agreement if 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.

- (i) The type face for the required information or the hand written information shall not be less small than the type used in the general body of the receipt.

10.03 For the purpose of interpreting this regulation, the term "NEW" shall mean a hearing aid which has not been previously sold at retail or used as a clinic demonstrator.

10.04. If all the requirements of this Section 10 of the regulations are contained and/or met in a sales agreement, sales contract or purchase order, such agreement, contract or order shall be considered as a receipt for the purposes of this section.

Section 11. Advertising

11.01. 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.

- 11.02. It is prohibited to 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.
- 11.03. No advertising shall represent 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 such advertising use the words "doctor", "clinic" or similar words, abbreviations or symbols which tend to connote the medical profession when such use is not accurate.
- 11.04. No advertising shall use the words "audiologist", "state licensed clinic", "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 such is not the case. The terms "certified member" or "certified hearing aid audiologist" may be used when such 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

N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

January 15, 1974

STATE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 1/18/74

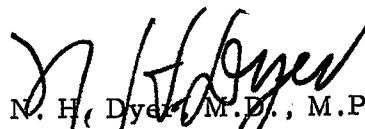
The Honorable Edgar F. Heiskell, III
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Sir:

Enclosed are two copies of an amendment to "Regulations Governing the West Virginia Board of Hearing Aid Dealers", designated Chapter 16-1, Series X of the West Virginia Administrative Regulations.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by the West Virginia Board of Hearing Aid Dealers December 13, 1973.

Very truly yours,


N. H. Dyer, M.D., M.P.H.
State Director of Health

NHD:jd

Enclosure

13.04. The term "significant air-bone gap" shall mean a differential between air and bone readings of 15 or more decibels at 500, 1000, and 2000 Hertz, ANSI standard.

I hereby certify that the foregoing regulations constitute the official regulations adopted by the West Virginia Board of Hearing Aid Dealers December 13, 1973, and filed pursuant to law in the office of the Secretary of State, State of West Virginia.



N. H. DYER, M. D., M. P. H.
STATE DIRECTOR OF HEALTH

FILED IN THE OFFICE
EDGAR C. BEISKELL III
SECRETARY OF STATE
THIS DATE 1/18/74

Section 14. Causes for the Suspension or Revocation of Licenses or Permits

14.01. The Board may suspend or revoke the license or permit if the individual or person holding such license or permit:

- (a) Violates any provision of the law regulating the licensure of hearing aid dealers and fitters or any violation of the regulations of the Board of Hearing Aid Dealers.
- (b) Procured a license by fraud or deceit practiced upon the Board.
- (c) Obtained any fee or made any sale of a hearing aid by fraud or misrepresentation.
- (d) Employed any person 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.
- (e) Used, caused, or promoted the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation however disseminated or published which is misleading, deceptive, or untruthful.
- (f) If found by the Board to be a person of habitual intemperance or gross immorality.
- (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.

- (h) Engaged in the fitting or sale of hearing aids under a false name or alias.
- (i) Engaged in the practice of fitting hearing aids while suffering from a contagious or infectious disease.
- (j) Permitted another person to use his license.
- (k) Is found by the Board to be guilty of gross incompetence or negligence in the fitting and sale of hearing aids.

Section 15. Status of Regulations

15.01. These regulations established for the regulation of the practice of dealing in or fitting of hearing aids and the protection of the hearing impaired public, the provisions hereby are declared to be separable and the invalidity of any regulation, clause, sentence, paragraph, or section hereof shall not effect the validity of the remainder thereof.