



## NOTICE OF PUBLIC HEARING

The Ohio Board of Speech-Language Pathology and Audiology (Board), pursuant to Chapter 119, of the Ohio Revised Code, hereby gives notice that it will conduct a public hearing for the purpose of considering the adoption, amendment, and recession of rules.

The public hearing will be conducted on **Tuesday, October 25, 2022, at 10:00 a.m. at the Vern Riffe Center for Government and the Arts**, located at 77 South High Street, 31<sup>st</sup> Floor; Columbus, Ohio, 43215. The hearing will take place in the **Board Room** and continue until all parties in attendance have had an opportunity to be heard.

Oral or written testimony may be presented by any person affected by the proposed action.

***The following rules are being proposed as amended rules:***

**4747-1-11 - Renewal Procedures**

This rule specifies the licensure renewal requirements for hearing aid dealers, hearing aid fitters, and train permit holders. The Board is proposing to amend section (B)(2) clarifying that a trainee permit shall not be renewed to an individual more than one time, as specified under state law. The Board is also proposing to amend section (C) for the continuing education requirements for hearing aid dealers and fitters. The public purpose of this rule is to ensure licensees renew their license in a timely manner and maintain and develop their competency by completing continuing education for consumer protection.

**4747-1-14 - Trainees**

This rule specifies the requirements for trainee permit holders. The Board is proposing to amend section (B) by adopting a new sub-section (3) that will require the trainee permit holder to attest that the trainee permit holder and supervisor have complied with all the supervision requirements under section 4747.10 of the Ohio Revised Code and this rule. The public purpose of this rule is to ensure consumer protection and that the trainee permit holder was appropriately supervised by a licensed hearing aid dealer or hearing aid fitter.

**4747-1-15 - Fraud and/or misrepresentation, suspension, revocation or refusal of issuance of licenses and trainee permits**

This rule specifies the grounds for disciplinary action for individuals or entities licensed under Chapter 4747. The Board is proposing to amend section (F) to references to good moral character requirements in accordance with House Bill 263 (133<sup>rd</sup> General Assembly).

**4747-1-17 - Licensee responsibilities**

This rule requires licensees to utilize appropriate hearing test procedures and maintain them on file for two years. The rule also requires licensees to notify the Board of any change to their contact information. The Board is proposing to amend section (B) that would require a licensed hearing aid dealer, firm, partnership, association, or corporation to notify the Board of

any sale of its licensed hearing aid business no later than thirty days from the date of the sale. The public purpose of this rule is consumer protection by ensuring the Board can communicate with licensees.

A copy of the proposed rules referenced above may be downloaded from the Register of Ohio at [www.registerohio.state.oh.us](http://www.registerohio.state.oh.us). In addition, individuals may request a complete text of the proposed rules by contacting the Board office at the address and/or telephone number noted below. Requests may also be submitted via e-mail at [Gregg.Thornton@shp.ohio.gov](mailto:Gregg.Thornton@shp.ohio.gov).

**All interested persons will be given the opportunity to be heard at the public hearing.** Those persons who wish to provide oral testimony at the hearing are encouraged to inform the Board prior to the hearing date and may be given preference in the order of testimony. **Individuals testifying in-person should bring 12 copies of their written testimony.**

**Written testimony received by the Board by the close of business the day before the hearing is scheduled will be considered.** Written testimony in lieu of oral testimony may be submitted by:

Written testimony via e-mail to [Gregg.Thornton@shp.ohio.gov](mailto:Gregg.Thornton@shp.ohio.gov)

**Note: written testimony by e-mail must be received no later than one day prior to the hearing date.**

Written testimony mailed to:

Gregg B. Thornton, Executive Director

**ATTN: Written Testimony for Rules Hearing**

Ohio Speech and Hearing Professionals Board

77 South High Street, Suite 1659

Columbus, OH 43215-6108

**Note: written testimony by mail must be received at the board office no later than one day prior to the hearing date. To ensure timely receipt of any written testimony, the Board recommends submitting testimony via e-mail, in lieu of mailing to the Board office.**

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## 4747-1-11      **Renewal procedures.**

- (A) Responsibility for filing and paying renewals shall rest with the licensee or permit holder.
- (B) With respect to trainee permits and their renewal:
- (1) Responsibility for renewing the trainee permit shall rest with the trainee and the trainee's supervisor or employer. Application for renewal of a trainee permit must be made to the board prior to the expiration date shown on the permit.
  - (2) There shall be a thirty-day period immediately following the expiration date shown on the trainee permit in which that permit may be renewed, which period applies to the time in which an application for trainee permit renewal may be made once. It does not authorize a trainee whose permit has expired to engage in any way in the fitting and sale of hearing aids after the expiration date shown on his permit. If renewal is not effected within this thirty-day period, the trainee shall submit a renewal application and statement attesting that the trainee has not engaged in the fitting and sale of hearing aids from the date of the expiration of the trainee permit to the present, and the prescribed fee to the board. ~~a new trainee permit must be obtained by submitting a new trainee permit application, a physician's statement, and the prescribed fee to the board.~~ The board shall not renew a trainee permit to an individual more than one time.
- (C) Continuing education hours
- (1) A licensee shall earn twenty hours of continuing education within the two-year licensure period immediately preceding the licensee's renewal application. One clock hour of continuing education is equal to sixty minutes of continuing education. Only actual hours of education activity shall be counted. Lunches, breaks and other interruptions of the education program shall not count toward the required hours. For a hearing aid fitter license, at least ten hours shall be specific to the measurement and testing of human hearing, the making of impressions for earmolds, or selecting and adapting of hearing aids. Continuing education clock hours must be acquired in subjects related to hearing aid fitting or audiology.
  - (2) At least two of the twenty hours of continuing education shall relate to ethics.
  - (3) A licensee is not required to obtain continuing education for the first renewal.
  - (4) Continuing education hours may not be carried over from one licensure ~~renewal~~ period to the next.
  - (5) An individual who previously held an Ohio hearing aid fitters license shall as part of an application for relicensure submit documentation of completing the continuing education hours required, or as approved by the board.
  - (6) Upon fulfillment of all legal requirements for renewal, including the signed renewal application form or via the Ohio eLicense system attesting to the completion of required clock hours of continuing education, licensees shall receive renewal of licensure.
  - (7) All licensees shall complete the required clock hours of continuing education prior to the thirty-first day of December of the renewal year.

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- (8) At the discretion of the board, the continuing education requirements for an individual, may be reduced or waived, under unusual circumstances such as military service commitment, medical emergencies, natural disasters, or conditions outside the control of the licensee.

## **(D) Continuing education programs**

Continuing education may be earned in the following continuing education experiences:

- (1) Academic coursework in audiology, or related disciplines, taken at accredited colleges or universities;
- (2) Any activity approved for continuing education in related disciplines by any licensure board of the state of Ohio.
- (3) Any activity approved for continuing education by the international hearing society; any continuing education activity offered by an American speech-language-hearing association approved continuing education provider; or the American academy of audiology.

## **(E) Continuing education credit for provision of health care services:**

In accordance with division (B) of section 4745.04 of the Revised Code, up to one-third of the continuing education requirements may be completed by providing volunteer services to indigent and uninsured persons. To qualify under this rule, volunteer services shall:

- (1) Be provided at a free clinic or other non-profit organization that offers health care services based on eligibility screenings identifying the client as an "indigent and uninsured person" as that term is defined in division (A)(7) of section 2305.234 of the Revised Code;
- (2) Be documented in writing in the form of a certificate or a written statement on letterhead from an administrative official at the organization where services were rendered, specifying at a minimum the license holder's name, license number, date(s) of qualifying volunteer services, and number of hours of services.
- (3) Not be credited for license holders in a paid position at the organization at which the services are rendered;
- (4) Be provided without receiving any compensation or other form of remuneration;
- (5) Be specific to the licensee's area of license, such as specific to dealing in and/or fitting of hearing aids;
- (6) Be credited as one hour of continuing education for each sixty minutes spent providing services as a volunteer, not to exceed three hours of the total annual continuing education requirement; and
- (7) Not count toward the requirements of paragraph (C)(1) of this rule to complete one hour of continuing education in ethics or Ohio state law.

## **(F) Documentation of continuing education:**

- (1) The licensee shall sign and submit to the board a form or via the Ohio eLicense system attesting to completion of required hours of continuing education at the time of license renewal.

The licensee shall retain supporting documents for inspection by the board for ~~two~~ four years after the date of renewal.

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- (2) Licensees to be audited shall receive notification of audit from the board. The licensee being audited shall submit to the board proof of completion of the required continuing education hours.
- (3) Failure to meet continuing education requirements, or to comply with the audit, upon request of the board, may result in suspension, revocation, denial of licensure or renewal of licensure according to the provisions of Chapter 119. of the Revised Code.

### **(G) Continuing education audit:**

- (1) The board may audit the continuing education of any licensee.
- (2) Licensee to be audited shall receive notification of the audit from the board. The licensee being audited shall submit to the board documentation of continuing education hours as defined by paragraph (F) of this rule.
- (3) The board may disapprove continuing education hours and shall notify the licensee of this action according to the provisions of Chapter 119. of the Revised Code.
- (4) The failure to comply with an audit notification may, for purposes of disciplinary action pursuant to section 4747.12 of the Revised Code, be considered to be unprofessional conduct in the practice of hearing aid dealing or hearing aid fitting and/or misrepresentation in obtaining or attempting to obtain a license.
- (5) The board may disapprove continuing education hours for renewal, relicensure, audit, or ethical practice and shall notify the applicant or licensee of this action according to the provisions of Chapter 119. of the Revised Code.
- (6) Submission of a false statement or documentation of continuing education shall result in reprimand, probation, suspension, revocation, or refusal to issue or renew a license according to the provisions of Chapter 119. of the Revised Code.
- (7) Failure to meet continuing education requirements or failure to substantiate continuing education hours upon request of the board shall result in reprimand, probation, suspension, revocation, or refusal to issue or renew a license according to the provisions of Chapter 119. of the Revised Code.
- (8) If a licensee submits the renewal form after the expiration date, the board shall assess a late fee and may audit the licensee. If the licensee attested yes on their renewal application to completing the continuing education requirements and is subsequently determined that the required continuing education hours were not completed prior to the renewal deadline, the licensee will be subject to a late fee.

### **(H) Continuing education audit procedures:**

- (1) At each renewal period, the board shall audit up to ten per cent of the renewal applications.
- (2) The board members shall be audited for the required continuing education hours.
- (3) The board shall send notification of audit to licensees to be audited.
- (4) The licensee being audited shall submit to the board a report of the continuing education hours required for renewal along with the appropriate documentation.

### **(I) Late renewal requirements:**

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A hearing aid dealer or fitter may apply for renewal of an expired license if the license has been expired within ninety days from the date the license initially expired.

(J) Expired license requirements:

- (1) A hearing aid dealer may apply for relicensure of an expired dealer's license by completing an application for relicensure and paying the fee charged for an initial dealer's application.
- (2) A hearing aid fitter may apply for relicensure of an expired fitter's license, without an examination requirement, for two years or less by completing an application for relicensure and paying the fee charged for an initial hearing aid fitter's application. The board shall issue the hearing aid fitter's license if the hearing aid fitter:

Submits documentation of completion of continuing education hours required for the two-year period immediately preceding the year of the application for relicensure.

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**4747-1-14      Trainees.**

(A) The activities of the holder of a hearing aid dealers and fitters trainee permit, while engaged in the practice of dealing in or fitting of hearing aids as defined by section 4747.01 of the Revised Code, shall be supervised by an individual who is a licensed hearing aid dealer or fitter. It shall be the responsibility of the trainee to maintain communication with the supervisor and to inform said supervisor of all acts and deeds in the pursuance of selling and/or fitting hearing aids. "Acts and deeds" include, but are not limited to, the following: meeting with a user or potential user; performing tests as defined in rule 4747-1-19 of the Administrative Code; taking of an earmold impression(s); and fitting and/or selling of hearing aids.

(B) "Supervision," as required by section 4747.10 of the Revised Code, means that:

- (1) During the effective period of the trainee permit, the trainee and that trainee's supervisor shall co-sign, with a signature and license number, all forms, reports of audiometric and other tests, and any other documents prepared by the trainee or the supervisor in conjunction with the trainee in the process of testing human hearing or fitting or selling a hearing aid or hearing aids.
- (2) During the ninety calendar days immediately following the effective date of the trainee permit as shown thereon, a supervisor must be physically present with a trainee who is engaged in the fitting or selling of hearing aids.

(3) Prior to submitting an application for a hearing aid fitter license or upon expiration of the trainee permit or a renewal thereof, the trainee permit holder shall submit to the board a "Trainee Supervision Report" attesting that the trainee permit holder and supervisor have complied with all the supervision requirements under section 4747.10 of the Revised Code and this rule.

~~(3)~~-(4) In order to ensure that meaningful supervision is available to each person engaged in training to become a licensed hearing aid dealer and fitter, no person, firm, partnership, association or corporation shall employ or have any form of relationship with more persons who hold hearing aid dealers and fitters trainee permits than it employs persons who hold hearing aid dealers and fitters licenses. Any licensed hearing aid dealer and fitter acting as a supervisor must be licensed for at least two years. No one licensee may supervise more than two trainees at any time. For the purpose of interpreting this rule, all persons in an organization who hold hearing aid dealers and fitters licenses shall be considered employees. However, no trainee shall be required to leave the place of employment simply because the licensed supervisor leaves. The trainee shall be permitted to work under the supervision of another licensed person until the board is properly notified of the change in supervision within three working days. No trainee may serve under more than one supervisor at a time.

~~(4)~~-(5) It shall be the responsibility of the trainee to submit to the supervisor all testing and sales documents pertinent to each sale, whether consummated or not. Failure to do so shall be considered a violation of division (M) of section 4747.12 of the Revised Code and paragraph (C)(2) of rule 4747-1-15 of the Administrative Code.

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**4747-1-15      Fraud and/or misrepresentation, suspension, revocation or refusal of issuance of licenses and trainee permits.**

(A) Fraud and/or misrepresentation:

- (1) No holder of a license or permit shall misrepresent the facts or commit fraudulent acts before, during or after the sale of a hearing aid, nor shall the holder of the license or permit use either means to obtain any fee.
- (2) Without limiting the scope of section 4747.09 or 4747.12 of the Revised Code, any of the following representations may be considered as fraudulent or a misrepresentation:
  - (a) That the hearing aid has sponsorship, approval performance characteristics, accessories, or uses it does not have.
  - (b) That the hearing aid will provide benefits it will not provide.
  - (c) That the hearing aid is of a particular brand model, engineering design or prescription if it is not, unless manufacturing constraints limited the original intent.
  - (d) That the hearing aid is new or reconditioned if it is not.
  - (e) The hearing aid is in need of extensive repairs and/or is in need of replacement if it is not.
  - (f) That the hearing aid is available to the purchaser for a reason that does not exist.
  - (g) That the hearing aid may be purchased below the dealer's regular price because of a special price advantage, if it does not exist.
- (3) In determining whether an act or practice is fraudulent or constitutes misrepresentation, the following circumstances shall be considered, but not exclusively. Whether the holder of a license or trainee permit:
  - (a) Took advantage of the inability of the purchaser reasonably to protect the individual's own interests because of physical or mental infirmities, ignorance, illiteracy or inability to understand the language of an agreement either verbal or written.
  - (b) Did not fully inform the purchaser of a hearing aid with obviously poor discrimination for speech of the individual's inability to obtain reasonable benefit.
  - (c) Made statements to mislead the purchaser into believing the individual's hearing will suffer if the individual does not purchase either one or two aids.
  - (d) Required the hearing aid purchaser to agree to contract terms which were substantially one-sided in favor of the dealer, fitter or trainee.
  - (e) Made false statement of fact, including, but not limited to statements made in advertising as defined in rule 4747-1-16 of the Administrative Code, on which the hearing aid purchaser was likely to rely, to the individual's detriment.
  - (f) Informed the client that the client's present hearing aid was beyond repair or inappropriate for the type or amount of loss when there was no evidence to support these statements.



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(B) By reason of the authority of section 119.061 of the Revised Code, the board may, in addition to those reasons enumerated in section 4747.12 of the Revised Code, also revoke, suspend, place on probation, or refuse to issue or renew a license or permit, or reprimand a license or permit holder if the holder thereof engages in deceptive trade practices as defined under section 4165.02 of the Revised Code; and, as provided by section 4165.02 of the Revised Code, the holder of a license or trainee permit will be considered to have engaged in a deceptive trade practice if, in the practice of dealing in or fitting of hearing aids as defined by section 4747.01 of the Revised Code, that licensee or trainee;

- (1) Passes off goods or services as those of another;
- (2) Causes likelihood of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.
- (3) Causes likelihood of confusion or misunderstanding as to affiliation, connection, or association with, or certification by another;
- (4) Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, in quantities that they do not have or that a person has sponsorship, approval, status affiliation or connection that the licensee or trainee does not have;
- (5) Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand;
- (6) Represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (7) Disparages the goods, services, or business of another by false representation of fact;
- (8) Advertises goods or services with intent not to sell them as advertised;
- (9) Makes false statements of fact concerning the reasons for, existence of, or amounts of price reductions;
- (10) Advertises goods or services with intent not to supply reasonable expectable public demand, unless the advertisement discloses a limitation of quantity.

(C) Disciplinary action of a supervisor's license:

- (1) Responsibility for the compliance with this law and its attendant rules by a trainee permit holder shall rest with the licensed supervisor who is registered as, or whom the board determines is, the trainee's supervisor at the time any noncompliance may occur.
- (2) If a trainee violates any provision of section 4747.12 or 4165.02 of the Revised Code (see paragraph (B) of this rule), the board may institute formal proceeding under either or both of these sections, pursuant to Chapter 119 of the Revised Code, against the trainee's supervisor, as well as, or instead of the trainee, to determine whether the supervisor's license as a hearing aid dealer and fitter should be revoked, suspended, placed on probation, refusal to issue or renew a license or permit, or issued a reprimand against the license or permit holder.
- (3) Failure of a supervisor to supervise a trainee, either generally or as required by rule 4747-1-14 of the Administrative Code. Failure of a trainee to maintain contact and communication with a supervisor shall also constitute gross incompetence or negligence in the fitting or sale of hearing aids in violation of

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division (M) of section 4747.12 of the Revised Code.

- (4) The supervisor will be relieved of the responsibility for the activities of a trainee if the supervisor advises the board and the trainee in writing of the supervisor's intention to cease to supervise the trainee. The supervisor should return promptly said trainee permit certificate and wallet-size certificate replica to the board for safekeeping and shall also issue subject trainee a dated receipt for said certificate. If the certificate cannot be returned, an explanation should be included in the supervisors withdrawal notification. It shall be the responsibility of the trainee to surrender the trainee's permit and wallet-size replica to the supervisor for return to the board. Failure to do so, shall constitute negligence in violation of division (M) of section 4747.12 of the Revised Code and paragraph (C)(2) of this rule.
- (D) Disciplinary action for inadequate testing: Failure of the holder of a license or trainee permit to comply generally with the requirements of rule 4747-1-19 of the Administrative Code, or any provision thereof with respect to test procedures and the written records to be kept regarding such procedures, shall constitute the fitting or selling or the attempted fitting or selling of hearing aids without first utilizing the appropriate procedures and instruments required for the proper fitting of hearing aids in violation of division (J) of section 4747.12 of the Revised Code, gross incompetence or negligence in the fitting or sale of hearing aids in violation of division (M) of section 4747.12 of the Revised Code, and also, where appropriate, the obtaining of a fee or the making of a sale of a hearing aid by fraud or misrepresentation in violation of division (C) of section 4747.12 of the Revised Code, and the board may institute formal proceedings under one or more of these sections, pursuant to Chapter 119. of the Revised Code, against the holder of such license or trainee permit to determine whether that license or trainee permit should be revoked, suspended, placed on probation, refusal to issue or renew a license or permit, or issued a reprimand against the license or permit holder.
- (E) Disciplinary action for violation of related laws. A conviction of any provision of Ohio law, shall constitute grounds for revocation or suspension. Proven violations of sections 1345.02 and 1345.03 (part of the Ohio Consumers Sales Practices Act), sections 1345.21 to 1345.31 (the Ohio Home Solicitation Sales Act), section 4165.02 (part of the Ohio Deceptive Trade Practices Act), section 4747.02, division (B) of section 4747.05, section 4747.09 and 4747.14 of the Revised Code, by holder of a license or trainee permit while such holder of said license or trainee permit is engaged in the practice of dealing in or fitting of hearing aids as defined by section 4747.01 of the Revised Code, shall constitute gross incompetence or negligence in the fitting or sale of hearing aids in violation of division (M) of section 4747.12 of the Revised Code and shall also constitute, where appropriate, the obtaining of a fee or the making of a sale of a hearing aid by fraud or misrepresentation in violation of division (C) of section 4747.12 of the Revised Code, and the board may institute formal proceedings under either or both of these sections pursuant to Chapter 119. of the Revised Code, against the holder of such license or trainee permit to determine whether that license or trainee permit should be revoked, suspended, placed on probation, refusal to issue or renew a license or permit, or issued a reprimand against the license or permit holder.
- (F) Refusal to issue license or trainee permit. The Board may refuse to issue a license or trainee permit for falsification ~~Falsification~~ of or the commission of perjury upon any application for license under section 4747.05 of the Revised Code or for a trainee permit under section 4747.10 of the Revised Code, or violation of any provision of section 4747.02 or 4747.14 of the Revised Code, ~~shall constitute lack of good moral character within the meaning of divisions (C) and (A)(2) of section 4747.05 and division (C) of section 4747.10 of the Revised Code, and the board may refuse to issue such license or trainee permit, for lack of good moral character under either of these sections~~ pursuant to Chapter 119. of the Revised Code.

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- (G) It is not intended that this rule be exhaustive, and the board may, if otherwise legally authorized, institute formal proceedings pursuant to Chapter 119. of the Revised Code for reasons other than those contained herein.

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**4747-1-17      Licensee responsibilities.**

- (A) A licensed hearing aid dealer or fitter shall utilize the results of appropriate test procedures on every individual to whom the licensed dealer or fitter sells to or fits a hearing aid for and have them on file for a period of two years. The licensed dealer shall assume responsibility for the accuracy of test results prepared by others or perform re-tests according to rule 4747-1-19 of the Administrative Code.
- (B) A licensed hearing aid dealer or fitter, firm, partnership, association, or corporation shall notify the board of any change of business or home address within thirty days after the change. A licensed hearing aid dealer, firm, partnership, association, or corporation shall notify the board of any sale of its licensed hearing aid business no later than thirty days from the date of the sale. Notification may be made by mail, fax, eMail, or electronically by logging into the Ohio eLicense system.
- (C) A licensed hearing aid dealer or fitter shall notify the board in writing of any felony or misdemeanor conviction other than minor traffic violations, including the case number and the court, within thirty days from the date of conviction.
- (D) A licensee shall comply within thirty days to a request for information from the board and must cooperate fully with any investigation conducted by the board.
- (E) Failure to comply with paragraph (B), (C), or (D) of this rule may result in disciplinary action by the board, including revocation, suspension, placing on probation, or refusing to issue or renew a license or permit or reprimanding a licensee or permit holder.