

04 030 120. Rules for Hearing Aid Dispensers

PART 1. GENERAL INFORMATION ABOUT THE LICENSING OF HEARING AID DISPENSERS

1.1 The Purpose of Licensing

The Secretary of State's Office of Professional Regulation has been given certain powers by Vermont law. The purpose is to protect the public health, safety and welfare by setting standards, licensing applicants, and regulating licensed hearing aid dispensers.

1.2 Business Location

The business location for licensing matters is the Office of the Secretary of State, Office of Professional Regulation, Redstone Office Building, 26 Terrace Street, Montpelier (the office). The mailing address is the Office of the Secretary of State, Pavilion Office Building, Montpelier, Vermont 05609-1106. The telephone number is (802) 828 - 2363, or toll-free in Vermont, (800) 439-8683. An interested person may get copies of these rules and more information about licensing and its requirements and procedures by writing or telephoning the office.

1.3 Advisors to the Director of Professional Regulation

The Secretary of State appoints three licensed hearing aid dispensers to serve as advisors to the Director of Professional Regulation in matters related to hearing aid dispensers. One member is an otolaryngologist; one is an audiologist; and the third is a hearing aid dispenser who is neither an otolaryngologist nor an audiologist.

The appointees advise the director on such matters as selecting an examination, setting a passing score, making administrative policies and rules, and denying licenses.

1.4 Laws that Govern Licensing

Licensing of hearing aid dispensers is governed by a specific statute that establishes the responsibilities for setting standards, issuing licenses, and regulating the profession. The law is Title 26, Vermont Statutes Annotated, Chapter 67. In addition, the director is obligated to comply with several other state laws, such as the subchapter on Professional Regulation (Title 3 Vermont Statutes Annotated, sections 121-131), the Administrative Procedure Act (Title 3 Vermont Statutes Annotated, sections 801 - 849); the Open Meeting Law (Title 1 Vermont Statutes Annotated, sections 311 -314), and the Access to Public Records Law (Title 1 Vermont Statutes Annotated, sections 315-320). These laws spell out the rights of applicants, licensed hearing aid dispensers, and members of the public. The complete text of any of these laws is available from town clerks or libraries, which should have a set of the Vermont Statutes Annotated.

PART 2. INFORMATION FOR APPLICANTS

2.1 Definitions

Terms defined in the Hearing Aid Dispensers Act, 26 V.S.A. § 3281, have the same meaning when used in these rules. In addition, when used in these rules;

(1) "Cost of service" means the actual cost of the service provided to fit the hearing aid or hearing aids but must not exceed five percent of the sale price or \$ 50.00 per sale, whichever is greater.

(2) "Director" means the director of the Office of Professional Regulation.

(3) "Physician" means any medical doctor or osteopath licensed to practice allopathic medicine or osteopathic medicine.

(4) "Special panel" means a panel appointed by the Secretary of State, including a public member and the appointed advisors or substitutes for them.

2.2 Qualifications for a License through Examination

In order to obtain a license to dispense hearing aids in Vermont, the applicant must:

(1) be at least 18 years old;

(2) pass the examination; and

(3) not be guilty of unprofessional conduct, as defined in 26 VSA § 3301

The passing score is set by the use of objective psychometric standards.

The examination is given at least twice a year, and the applicant who does not pass the examination may retake it one or more times. A special panel may waive the requirements of (3) if the applicant shows sufficient rehabilitation.

2.3 Licenses from other Jurisdictions

The director may waive the examination requirement if the applicant is a hearing aid dispenser regulated under the laws of another state, who is in good standing to dispense hearing aids in that state and who was licensed by examination and the examination currently used is equivalent to Vermont's, including the criteria for passing.

2.4 Right to a Written Decision and Appeal

If the director denies an application for a license, he or she shall give the applicant specific reasons in

writing and inform the applicant of the right to appeal this decision to a special panel appointed by the secretary. After an opportunity to present the application and any additional information, the special panel shall affirm or reverse the director's preliminary decision. The applicant may appeal the special panel's decision to an appellate officer.

PART 3. INFORMATION FOR LICENSED HEARING AID DISPENSERS

3.1 Renewal of License

Licenses are to be renewed every two years. Biennially, the director shall forward a renewal form to each licensee. When the form is returned with the renewal fee, the office will issue a new certificate. This rule does not apply to lapsed licenses (see 3.2).

3.2 Reinstating a License

A license which has lapsed for a period of three years or less may be renewed upon application and payment of the renewal fee and the reinstatement fee.

A license which has lapsed for more than three years may be reinstated after the applicant passes the examination. The applicant must complete a reinstatement application, which details his or her activities since the last renewal was filed.

3.3 Display of License, Business Address

A licensee must maintain, in Vermont, a business address, an office and a telephone number, at which the licensee can normally be reached, and must conspicuously display a copy of the license at each place of business the licensee maintains for dispensing hearing aids.

3.4 Change of Name or Address

A licensee is responsible for notifying the office promptly if he or she changes name, mailing address or business address. Failure to notify the office may result in not receiving the renewal application.

3.5 Records and Equipment

(a) A licensee must maintain records relating to any sale of a hearing aid or related services and, upon request, must make such records available to the director or the buyer for review. A licensee must maintain the required records by a reasonably reliable method for at least seven years from the date of sale, including:

- (1) contracts and retail installment sales agreements;
- (2) hearing test results;

(3) waivers signed by the consumer; and

(4) a record of payments and refunds.

(b) Testing equipment used by a licensee must be available for inspection during normal business hours, and must be calibrated annually, as provided in 26 VSA § 3282. A copy of the calibration report must be kept on file and provided to the director's inspector on request.

3.6 Prices to be Disclosed

(a) A licensee must disclose in a clear and conspicuous manner the range of retail prices charged for hearing aids and accessories. The disclosure schedule must include the ten brands of hearing aids most frequently sold, and show the highest and lowest prices for each brand. The most expensive and the least expensive brands sold must be included on the list. The schedule must also show the range of prices for batteries.

(b) The disclosure schedule must be posted in each retail establishment in which the licensee works, in a location which is easily accessible in the waiting area of the dispenser's office at eye level. The price disclosure shall be in not less than fourteen point boldface type and "one and a half" spacing, or the handlettered equivalent.

This sentence is an example of fourteen point boldface type with one and a half spacing.

A typed copy, in twelve point or pica type, must be given to each customer prior to any sale.

3.7 Required Clauses in Contracts

(a) At the time of each sale, immediately before completion, the dispenser shall provide to the buyer a written statement showing the complete terms of sale, including the individual prices of the goods and services sold, the brand, model number, serial number, whether the hearing aid is new or used, the dispenser's telephone number and the date of delivery, to be filled in upon delivery. The written statement shall include or be accompanied by a disclosure in substantially the following form:

NOTICE OF 45 DAY TRIAL PERIOD

YOU HAVE 45 DAYS FROM THE DAY THAT YOU RECEIVE YOUR HEARING AID TO TRY IT OUT AND DECIDE WHETHER YOU WISH TO KEEP IT. THE 45 DAY PERIOD DOES NOT INCLUDE ANY DAYS THAT THE HEARING AID IS IN THE POSSESSION OF THE DISPENSER, MANUFACTURER, REPAIRER OR THEIR AGENTS. IF, IN YOUR OPINION, DURING THE 45 DAY TRIAL PERIOD YOU FEEL THAT THE HEARING AID IS NOT SATISFACTORY FOR YOU, YOU HAVE A RIGHT TO RETURN THE HEARING AID AND RECEIVE A REFUND OF THE FULL PRODUCT PRICE EXCEPT FOR THE COST OF EAR MOLDS AND SERVICE. THIS REFUND WILL BE AT LEAST \$ _____. (ENTER PRICE MINUS COST OF EAR MOLD & SERVICE *). HOWEVER, IF YOU HAVE DAMAGED THE HEARING AID, YOUR REFUND WILL BE REDUCED BY THE REASONABLE COST OF DAMAGE.

* "COST OF SERVICE" MEANS THE ACTUAL COST OF THE SERVICE PROVIDED TO FIT THE HEARING AID OR HEARING AIDS BUT MUST NOT EXCEED FIVE PERCENT OF THE SALE PRICE OR \$ 50.00 PER SALE, WHICHEVER IS GREATER.

IN ORDER TO RETURN THE HEARING AID AND RECEIVE A REFUND, CONTACT

___ AT (ENTER NAME OF DISPENSER)

___, (ENTER ADDRESS OF DISPENSER)

___, NOT LATER THAN 45 DAYS AFTER DELIVERY OF THE HEARING AID.

(b) At the time of delivery, the delivery date shall be entered on the sales contract.

(c) If the hearing aid is delivered at a time other than when a contract is signed, it shall be accompanied by a notice of the 45 day trial period as specified in section (a) above.

(d) At the time of sale, the dispenser shall give the buyer a written copy of any audiometric test performed.

3.8 Refunds

A dispenser shall pay any refund requested during the 45 day trial period within four weeks of receiving a returned hearing aid or, if the hearing aid has not been delivered, within four weeks of the request. Failure to pay the refund within the four weeks shall be considered an unreasonable delay of a refund for purposes of 26 VSA § 3301(14) (unprofessional conduct).

3.9 Complaints, Investigations and Unprofessional Conduct

The Office maintains procedures for the investigation of complaints, holding hearings and taking disciplinary action. Contact the Office for copies of the procedures. Statutory Authority: 26 V.S.A. Chapter 67

Effective Date: December 25, 1991 (Secretary of State Rule Log #91-74)