

## **TITLE 216 - DEPARTMENT OF HEALTH**

### **CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION**

#### **SUBCHAPTER 05 – PROFESSIONAL LICENSING**

##### **PART 31 – Hearing Aid Dealers and Fitters**

### **31.1 Authority**

These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 5-49-21, and are adopted for the purpose of establishing prevailing standards for the licensure of hearing aid dealers and fitters in this state.

### **31.2 Definitions**

A. Wherever used in this Part, the terms listed below shall be construed as follows:

1. “Act” means R.I. Gen. Laws Chapter 5-49, entitled “Hearing Aid Dealers and Fitters.”
2. "Audiologist" means a person who has been awarded a certificate of competency by the American Speech and Hearing Association and who is duly licensed by the Department.
3. “The Board” means the Board of Hearing Aid Dealers and Fitters.
4. “Certificate of need” means the documentation of a medical evaluation that is required prior to the purchase of a hearing aid in accordance with federal and state laws.
5. “Direct supervision,” means the licensed hearing aid dealer and fitter personally authorizes and oversees the activities of the temporary permit holder, remains on-site while these activities are being performed, and reviews the results.
6. “Department” means the Department of Health.
7. "Hearing aid" means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including ear mold, but excluding batteries and cords.
8. “License” means a license issued by the state under the Act to hearing aid dealers and fitters.

9. "Practice of fitting and dealing in hearing aids" means the evaluation and measurement of human hearing by means of an audiometer or by any other means solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for ear molds. This term does not include the making of audiograms for a physician or a member of related professions for use in consultation with the hard of hearing.
10. "Sell" or "Sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers.
11. "Temporary permit" means a permit issued while the applicant is in training to become a licensed hearing aid dealer and fitter.

### **31.3 Licensure Requirements**

#### **31.3.1 Qualifications of Applicants**

- A. Qualifications and licensure requirements are in accordance with the provisions of R.I. Gen. Laws § 5-49-7.
- B. Issuance of Licenses
  1. License by Examination: Issuance of licenses is in accordance with R.I. Gen. Laws § 5-49-6. Any person who desires to engage in the practice of fitting and dealing in hearing aids must hold a license issued by the Department. Applicants for licensure shall submit the following:
    - a. A completed application for a license submitted to the Department.
    - b. The license fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health ([Part 10-05-2](#) of this Title).
    - c. Verification of successful completion of the national examination approved by the Board,
    - d. Successful completion of a practical examination approved by the Board.
  2. License by Endorsement: Licensure by endorsement is in accordance with R.I. Gen. Laws § 5-49-6. Applicants for a license by endorsement shall submit the following:
    - a. A completed application for a license submitted to the Department.

- b. The license fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health ([Part 10-05-2](#) of this Title).
  - c. Verification that the applicant is in good standing in all states and territories where the applicant holds or has held a license or certification to engage in the practice of fitting and dealing in hearing aids.
- 3. All Hearing Aid Dealer and Fitter licenses issued by the Department must be conspicuously posted in the hearing aid dealer and fitter office(s) or place(s) of business. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the Department for posting in each location.
- 4. Temporary Permits
  - a. In addition to the requirements in R.I. Gen. Laws § 5-49-8, the following shall be required:
    - (1) Twenty (20) hours per week of direct supervision for the first thirty (30) days of training;
    - (2) Review of all audiograms, sales and other records for the second thirty (30) days of training; and
    - (3) Periodic review of audiograms, sales and other records for the remainder of the training period.

### **31.3.2 Renewal of License**

- A. Licensed hearing aid dealers and fitters shall abide by all expiration and renewal of licensure requirements in R.I. Gen. Laws § 5-49-11.
  - 1. All hearing aid dealer and fitter licenses shall expire on the 31st day of January of each even- numbered year, unless sooner suspended or revoked, and shall be renewed for the next ensuing two (2) years by the Department upon completion of a renewal application and payment of a biennial renewal fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health for each such renewal.

### **31.3.3 License for Sale and Fitting of Hearing Aids.**

- A. Requirements to sell or fit hearing aids are as set forth in R.I Gen. Laws § 5-49-2.
- B. Notice to Department of Place of Business

1. All licensed persons must notify the Department of the regular address of their place or places of business in accordance with the provisions of R.I. Gen. Laws § 5-49-10.

#### **31.3.4 Examination Requirements**

- A. Applicants for license by examination must meet the requirements in R.I. Gen. Laws § 5-49-7 and shall be examined by means of written and practical tests as required in R.I. Gen. Laws § 5-49-9 in order to demonstrate that he/she is qualified to practice the fitting and sale of hearing aids.
  1. For written examination, the Board, or its designee, shall administer the current International Hearing Society or other national examination for hearing aid fitters and dealers, as may be approved by the Board.
  2. The Board shall adopt a practical examination that meets the requirements of R.I. Gen. Laws § 5-49-9(2).
  3. The Department shall issue to each person successfully passing the examinations, where an examination is required, and who otherwise satisfies the Department of his/her qualifications, a license entitling him/her to practice said business in this state for the biennial period stated in the license, or until the license shall be revoked or suspended, as hereinafter provided.
  4. In case of failure of any applicant to satisfactorily pass the examinations, such applicant shall be entitled to re-examinations. Any examination fees shall be resubmitted upon re-examination.
  5. An applicant who fails to pass the written and practical examinations twice shall not be eligible for further examinations until the applicant has satisfactorily completed additional preparation as directed and approved by the Board. This condition for eligibility also applies to each subsequent failure.

#### **31.3.5 Scope of examination**

- A. In addition to the scope of examination requirements set forth in R.I. Gen. Laws § 5-49-9, the qualifying examination shall include:
  1. R.I. Gen. Laws Chapter 6-45 (so-called "lemon law");
  2. Rules and regulations as contained in this Part.

#### **31.3.6 Persons and Practices Exempted**

Persons and practices exempted are pursuant to R.I. Gen. Laws § 5-49-4.

## **31.4 Administrative Requirements**

### **31.4.1 Certificates of Need and Other Requirements Prior to Delivery of Services**

- A. No person, firm, association or corporation shall sell or attempt to sell or otherwise make available any hearing aid instrument or hearing prosthetic device to a prospective consumer or purchaser unless that consumer or purchaser has first obtained and presented to the seller a certificate of need on forms prescribed and furnished by the Director, signed by a physician duly licensed in the state under the provisions of R.I. Gen. Laws Chapter 5-37, attesting thereon that pursuant to an ontological examination no more than six (6) months prior to the sale of the hearing aid, it is his/her diagnosis that the prospective patient-purchaser has a hearing impediment of such a nature as to indicate the need for a hearing aid instrument or hearing prosthetic device.
- B. Pursuant to federal requirements, an adult (i.e., person aged eighteen [18] years or older) prospective purchaser may waive the medical evaluation requirement provided that said purchaser has been informed that the exercise of said waiver is not in the purchaser's best interest.
  - 1. A statement shall be signed by the prospective purchaser indicating informed consent regarding the waiver described in § 31.4.1(B) of this Part. Said statement shall be retained for no less than three (3) years by the licensee in accordance with federal requirements.
  - 2. Any person engaging in the practice of fitting and dealing in hearing aids will, when dealing with a child ten (10) years of age or under, ascertain whether the child has been examined by an otolaryngologist or primary care physician and an audiologist for his/her recommendation within ninety (90) days prior to the fitting. If that not be the case, a recommendation to do so must be made and such an examination must be conducted before the sale of any hearing aid.
- C. Prior to delivery of services or products to the prospective purchaser, a licensee shall provide discussion of amplification or aural rehabilitation options appropriate to the hearing loss and communication needs presented by the patient.
- D. The licensee shall deliver information, either written or oral, appropriate to the patient's needs and options under discussion, including, but not limited to, types of circuitry, telecoils, or programmability, and if applicable, estimated unit prices for the following service: hearing aid(s), accessories, service contracts, hearing aid (loss and damage) insurance, health care coverage, warranty, financing, and related goods and services.

### **31.4.2 Records of Transactions**

- A. The Records of Transactions are as set forth in R.I. Gen. Laws § 5-49-2.2.

- B. Every person, firm, association or corporation shall keep a permanent record of all sales or other transactions whereby a hearing aid instrument or hearing prosthetic device is made available.
- C. Each record of a transaction shall have attached thereto the certificate of need, or signed waiver, presented by the prospective purchaser and shall be retained for a period of three (3) years and be kept open for inspection by any official designated by the Director.

### **31.4.3 Receipt Required**

Receipt Requirements are in accordance with R.I. Gen. Laws § 5-49-3.

## **31.5 Prohibited Acts and Practices**

Prohibited acts and practices are as set forth in R.I. Gen Laws § 5-49-13.

### **31.5.1 Complaints**

The procedure for complaints is as set forth in R.I. Gen. Laws § 5-49-12(a).

### **31.5.2 Proceedings for Revocation or Suspension of Licenses**

The grounds and proceedings for revocation or suspension of licenses are set forth in R.I. Gen. Laws § 5-49-12(b).

### **31.5.3 Penalties for Violations**

- A. Penalties for violation of any of the provisions of the Act shall be in accordance with R.I. Gen. Laws § 5-49-19. In addition:
  - 1. Any person, firm, association or corporation who sells or attempts to sell or otherwise makes available a hearing aid instrument or hearing prosthetic device without a certificate of need and/or fails to keep records as prescribed in R.I. Gen. Laws § 5-49-2.2 and any physician who shall issue a certificate of need not in conformance with R.I. Gen. Laws § 5-49-2.1 shall be subject to the penalties set forth in R.I. Gen. Laws § 5-49-2.3.

## **31.6 Rules Governing Practices and Procedures**

All hearings and reviews required under the provisions of R.I. Gen. Laws Chapter 5-49, shall be held in accordance with the rules and regulations regarding Practices and Procedures Before the Department of Health ([Part 10-05-4](#) of this Title) and Access to Public Records ([Part 10-05-1](#) of this Title).

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**PART 31 - HEARING AID DEALERS AND FITTERS (216-RICR-40-05-31)**

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